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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Extrajudicial, summary or arbitrary executions

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report on extrajudicial, summary or arbitrary executions prepared by Mr. Bacre Waly Ndiaye, Special Rapporteur of the Commission on Human Rights, in accordance with paragraph 19 of Commission resolution 1996/74 of 23 April 1996 and Economic and Social Council decision 1996/279 of 24 July 1996.

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ANNEX

Report of the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions

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I. INTRODUCTION

1. The present report is the first report to be submitted to the General Assembly since the mandate on summary and arbitrary executions was established by the Economic and Social Council in its resolution 1982/35 of 7 May 1982. The report is presented by the Special Rapporteur, Mr. Bacre Waly Ndiaye, who has thus far presented four annual reports to the Commission on Human Rights.

2. The present report is submitted pursuant to Commission on Human Rights resolution 1996/74 of 23 April 1996 on extrajudicial, summary or arbitrary executions. In that resolution, the Commission invited the Special Rapporteur to submit an interim report to the General Assembly at its fifty-first session on the situation worldwide in regard to summary or arbitrary executions and his recommendations for more effective action to combat that phenomenon.

3. The Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Ndiaye, took over the mandate when the previous Special Rapporteur, Mr. S. Amos Wako, resigned. Mr. Wako had been Special Rapporteur from the establishment of the mandate in 1982 until March 1992. Mr. Ndiaye was appointed in April 1992 by the Chairman of the Commission on Human Rights, pursuant to Commission resolution 1992/72 of 5 March 1992, which was approved by the Economic and Social Council in its decision 1992/242 of 20 July 1992.

A. Structure of the report

4. The report covers the period from 20 July 1992 through 1 September 1996, the time during which the present Special Rapporteur has been in office. The period from 1982 to 1992, is summarized in paragraphs 5 to 9 below. In chapter II, the Special Rapporteur offers an interpretation of the mandate entrusted to him and the legal framework within which it has been implemented. Chapter III covers the methods of work and activities undertaken since 1992. In chapter IV, the various situations involving violations of the right to life are discussed. In chapter V, the Special Rapporteur presents an account of issues requiring his special attention. Issues of special concern are reported on in chapter VI. Finally, chapter VII contains the Special Rapporteur's concluding remarks and recommendations designed to ensure a more effective respect for the right to life.

B. History of the mandate

5. The subject of summary or arbitrary executions had been discussed in the United Nations for many years within the framework of a wider discussion on human rights. The Subcommission on Prevention of Discrimination and Protection of Minorities had for a long time reported on this subject under the item entitled "Disappearances and summary executions". Over the years, the Subcommission's reports revealed increasing instances of alleged summary executions. The Commission on Human Rights, in its resolution 20 (XXXVI), of 29 February 1980, established the Working Group on Enforced or Involuntary

Disappearances. The creation of that Group, in addition to other developments, led to the establishment of the mandate on summary and arbitrary executions.

6. The Commission on Human Rights, by its resolution 1982/29 of 11 March 1982, recommended that the Economic and Social Council request the Chairman of the Commission to appoint an individual of recognized international standing as special rapporteur to submit a comprehensive report to the Commission at its thirty-ninth session on the occurrence and extent of the practice of summary or arbitrary executions, together with his conclusions and recommendations. This resolution was subsequently adopted by the Economic and Social Council as resolution 1982/35 and established the mandate of the Special Rapporteur.

7. The mandate of the Special Rapporteur has been regularly renewed by the Economic and Social Council. The Special Rapporteur has examined the issue from various aspects with a view to presenting a comprehensive picture of the phenomenon of summary or arbitrary executions in the contemporary world.

8. The Commission on Human Rights, in its resolution 1992/72, renewed the mandate of the Special Rapporteur and extended it for another three years. This resolution was approved by the Economic and Social Council in its decision 1992/242. It should be noted that in its resolution, the Commission widened the title of the mandate to include "extrajudicial" as well as "summary or arbitrary" executions. This change indicates that the members of the Commission have adopted a broader approach to the mandate on executions to include all violations of the right to life as guaranteed by a large number of international human rights instruments.

9. After having presented his ninth report 1/ to the Commission on Human Rights, Mr. Wako resigned as Special Rapporteur in early March 1992 and Mr. Ndiaye took over the mandate on 20 July 1992.

II. THE MANDATE

A. Terms of reference

10. As it had in previous years, the Commission on Human Rights, in its resolution 1996/74, requested the Special Rapporteur, in carrying out his mandate:

(a) To continue to examine situations of extrajudicial, summary or arbitrary executions and to submit on an annual basis his findings, together with conclusions and recommendations, to the Commission on Human Rights, as well as such other reports as the Special Rapporteur deems necessary in order to keep the Commission informed about such serious situations of extrajudicial, summary or arbitrary executions that warrant its immediate attention;

(b) To respond effectively to information that comes before him, in particular when an extrajudicial, summary or arbitrary execution is imminent or threatened or when such an execution has occurred;

(c) To enhance further his dialogue with Governments, as well as to follow up on recommendations made in reports after visits to particular countries;

(d) To continue to pay special attention to extrajudicial, summary or arbitrary executions of children and women and to allegations concerning violations of the right to life in the context of violence against participants in demonstrations and other peaceful public manifestations or against persons belonging to minorities;

(e) To pay special attention to extrajudicial, summary or arbitrary executions where the victims are individuals who are carrying out peaceful activities in defence of human rights and fundamental freedoms;

(f) To continue monitoring the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment, bearing in mind the comments made by the Human Rights Committee in its interpretation of article 6 of the International Covenant on Civil and Political Rights, as well as the Second Optional Protocol thereto;

(g) To apply a gender perspective in his work.

11. In other resolutions adopted by the Commission on Human Rights at its fifty-second session, special rapporteurs were requested to pay particular attention to certain issues within the framework of their mandates. Those resolutions include the following: 1996/20 on the rights of persons belonging to national or ethnic, religious and linguistic minorities; 1996/32 on human rights in the administration of justice, in particular of children and juveniles in detention; 1996/47 on human rights and terrorism; 1996/48 on the question of integrating the human rights of women throughout the United Nations system; 1996/49 on the elimination of violence against women; 1996/51 on human rights and mass exoduses; 1996/52 on internally displaced persons; 1996/53 on the right to freedom of opinion and expression; 1996/55 on advisory services, technical cooperation and the Voluntary Fund for Technical Cooperation in the Field of Human Rights; 1996/70 on cooperation with representatives of United Nations human rights bodies; 1996/78 on the comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action; 1996/85 on the rights of the child.

12. In implementing his mandate, the Special Rapporteur takes into account the requests made by the Commission on Human Rights in the above-mentioned resolutions, particularly when evaluating and analysing information he receives.

B. Violations of the right to life: action taken by the Special Rapporteur

13. Since the creation of the mandate in 1982, action has been taken in a variety of situations by the Special Rapporteurs in charge of the mandate. During the period under consideration, the Special Rapporteur has taken and continues to take action in the following cases:

(a) Violations of the right to life in connection with the death penalty. The Special Rapporteur intervenes when capital punishment is imposed after an unfair trial, or in case of a breach of the right to appeal or the right to seek pardon or commutation of sentence. He also intervenes if the convicted is a minor, a mentally retarded or insane person, a pregnant woman or a recent mother;

(b) Death threats and fear of imminent extrajudicial executions by state officials, paramilitary groups, private individuals or groups cooperating with or tolerated by the Government, as well as unidentified persons who may be linked to the categories mentioned above;

(c) Deaths in custody owing to torture, neglect or the use of force, or life-threatening conditions of detention;

(d) Deaths owing to the use of force by law enforcement officials, or persons acting in direct or indirect compliance with the State, when the use of force is inconsistent with the criteria of absolute necessity and proportionality;

(e) Deaths owing to attacks by security forces of the State, by paramilitary groups, death squads or other private forces cooperating with or tolerated by the Government;

(f) Violations of the right to life during armed conflicts, especially of the civilian population, contrary to humanitarian law;

(g) Expulsion or refoulement of persons to a country where their lives are in danger;

(h) Genocide;

(i) Breach of the obligation to investigate alleged violations of the right to life and to bring those responsible to justice;

(j) Breach of the obligation to provide adequate compensation to victims of violations of the right to life.

C. Legal framework

14. The Special Rapporteur is guided primarily by international legal standards. The main substantive legal framework, as indicated by the Commission on Human Rights, in its resolution 1992/72, and the General Assembly, in its resolution 45/162 of 18 December 1990, comprises the Universal Declaration of Human Rights and articles 6, 14 and 15 of the International Covenant on Civil and Political Rights. These standards, which are universal, are interpreted within the context of other United Nations instruments, enumerated in the sixth preambular paragraph of Commission resolution 1992/72.

15. The right to life finds its most general recognition in article 3 of the Universal Declaration of Human Rights. Article 6 of the International Covenant

on Civil and Political Rights recognizes the inherent right of every person to life, adding that this right "shall be protected by law" and that "no one shall be arbitrarily deprived of life". The right to life of persons under the age of 18 and the obligation of States to guarantee the enjoyment of this right to the maximum extent possible are both specifically recognized in article 6 of the Convention on the Rights of the Child.

16. In accordance with article 2 of the Universal Declaration of Human Rights and articles 2 and 26 of the International Covenant on Civil and Political Rights, and pursuant to several other United Nations declarations and conventions, everyone is entitled to the protection of the right to life without distinction or discrimination of any kind, and all persons shall be guaranteed equal and effective access to remedies for the violation of this right.

17. Moreover, article 4, paragraph 2, of the International Covenant on Civil and Political Rights provides that exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any derogation from the right to life and security of the person.

18. The general recognition of the right to life of every person in the aforementioned international instruments constitutes the legal basis for the work of the Special Rapporteur. Various other treaties, resolutions, conventions and declarations adopted by competent United Nations bodies contain provisions relating to specific types of violations of the right to life. They, too, form part of the legal framework within which the Special Rapporteur operates. 2/

19. One of the most pertinent of these instruments is the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council in its resolution 1989/65 of 24 May 1989. Principle 4 sets forth the obligation of Governments to guarantee effective protection through judicial or other means to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats.

20. The situations of extrajudicial, summary or arbitrary executions that the Special Rapporteur is requested to investigate comprise a variety of cases. All acts and omissions of state representatives that constitute a violation of the general recognition of the right to life embodied in the Universal Declaration of Human Rights (article 3) and the International Covenant on Civil and Political Rights (article 6 and, also, articles 2, 4, para. 2, 26 and, in particular with regard to the death penalty, articles 14 and 15), as well as a number of other treaties, resolutions, conventions and declarations adopted by competent United Nations bodies, fall within his mandate.

III. METHODS OF WORK AND ACTIVITIES SINCE 1992

A. Communications

21. The Special Rapporteur discharges his mandate mainly on the basis of information brought to his attention by non-governmental organizations, Governments, individuals and intergovernmental organizations. These communications contain specific cases of alleged extrajudicial, summary or arbitrary executions, or death threats, and/or general information about questions related to the right to life.

22. While many of the organizations and individuals providing allegations are well known to the Special Rapporteur and other United Nations human rights officials as sources of credible information, sometimes allegations are received from less well-known or entirely new sources. The main criteria applied by the Special Rapporteur in his evaluation of such allegations are the degree of detail they contain concerning the victims and the precise circumstances of the given incident. Where doubt persists, the Special Rapporteur will continue to seek corroboration of these allegations from other sources of undisputed credibility. The way in which the sources of allegations respond to the Special Rapporteur's requests for comments on the contents of government replies and/or for additional details to clarify the cases they submitted will provide the Special Rapporteur with a basis for assessing the reliability of the sources. Where there are no serious grounds to believe that the information provided by the source is not credible, the Special Rapporteur transmits the allegations to the Governments concerned, either in the form of an urgent appeal or a letter.

23. The limited staff available to the Special Rapporteur does not allow him to take an active approach and to seek contact with possible local or national sources of information in cases where, for example, violations of the right to life are reported by the media but allegations have not been submitted to the Special Rapporteur. The availability of information on any country clearly depends on the degree of freedom granted by Governments to human rights activists, as well as on the latter's level of organization. As a consequence, the Special Rapporteur continues to find himself in a situation where, for some countries, the information brought to his attention is very complete, while other countries simply do not figure in his report because no information has been received, or the communications brought to his attention are not sufficiently specific to allow them to be processed within the framework of his mandate. Therefore, allegations transmitted by the Special Rapporteur are only approximately indicative of the occurrence of violations of the right to life worldwide.

B. Urgent appeals

24. Urgent transmissions were made by the Special Rapporteur in cases that evinced a fear of imminent extrajudicial, summary or arbitrary executions; these cases included death threats and fear of imminent execution of death sentences in contravention of the limitations on capital punishment set forth in the pertinent international instruments. This fear is sometimes based on alleged violations of the right to life that have already been committed. The Special

Rapporteur also sent urgent appeals to Governments after having been informed of the imminent expulsion of persons to a country where they are at risk of extrajudicial, summary or arbitrary execution.

25. The aim of urgent appeals is the prevention of loss of life. Consequently, the Special Rapporteur transmits allegations of imminent extrajudicial, summary or arbitrary executions regardless of whether domestic remedies have been exhausted.

26. During the period under review, the Special Rapporteur transmitted 818 urgent appeals on behalf of more than 6,500 persons, as well as on behalf of members of certain families, various indigenous communities, groups of refugees, internally displaced persons and the civilian population in various conflict areas.

27. Urgent appeals were transmitted to the following 91 countries: Afghanistan, Algeria, Angola, Argentina, Azerbaijan, Bahrain, Bangladesh, Bosnia and Herzegovina, Brazil, Burundi, Cambodia, Cameroon, Central African Republic, Chad, Chile, China, Colombia, Comoros, Costa Rica, Cuba, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Gabon, Georgia, Germany, Guatemala, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Jamaica, Jordan, Kazakstan, Kenya, Kuwait, Kyrgyzstan, Lebanon, Libyan Arab Jamahiriya, Malawi, Malaysia, Mexico, Morocco, Myanmar, Nepal, Netherlands, Nicaragua, Nigeria, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Portugal, Russian Federation, Rwanda, Saudi Arabia, Sierra Leone, Singapore, South Africa, Sri Lanka, Sudan, Swaziland, Sweden, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uzbekistan, Venezuela, Viet Nam, Yemen and Zaire. In addition, an urgent appeal was transmitted to the Palestinian Authority.

Table 1

Urgent appeals transmitted to Governments since 1992

Year	Number of urgent appeals	Number of Governments
1992	143	43
1993	217	52
1994	151	53
1995	203	41
1996 a/	104	34

a/ Up to 1 September 1996.

28. The Special Rapporteur transmitted urgent appeals on behalf of more than 100 identified individuals to the Governments of Brazil, Colombia, Guatemala, Peru and South Africa, and on behalf of more than 50 identified individuals to Egypt, El Salvador, Iraq, Mexico, Nigeria, Saudi Arabia, the Sudan, Togo and the United States of America.

29. The Special Rapporteur appealed to the Governments concerned to ensure effective protection of those under threat or at risk of execution. He also urged the competent authorities to undertake full, independent and impartial investigations with respect to those violations and to adopt all necessary measures to prevent further violations of the right to life. The Special Rapporteur requested that he be informed of every step taken in this regard.

30. In addition, since 1995, joint urgent appeals have been sent to Governments when the relevant issues concerned the mandate of more than one special rapporteur or working group. During 1995 and 1996, 3/ the Special Rapporteur participated in, respectively, 14 and 11 joint urgent appeals.

C. Other allegations

31. Alleged cases of extrajudicial, summary or arbitrary executions were transmitted to concerned Governments in the form of case summaries. They were accompanied by letters requesting Governments to provide the Special Rapporteur with information concerning the progress and results of investigations conducted with respect to these cases, penal or disciplinary sanctions imposed on the perpetrators, compensation provided to the family of the victim, as well as with any other pertinent comments or observations. 4/ In these letters, the Special Rapporteur also urged Governments to take steps that might be necessary in order to investigate, prosecute, impose appropriate sanctions and provide compensation in accordance with international standards, as well as to take measures to prevent the recurrence of such acts.

32. The Special Rapporteur sent alleged cases of extrajudicial, summary or arbitrary executions to the Governments of the following 89 countries: Afghanistan, Algeria, Angola, Argentina, Armenia, Australia, Azerbaijan, Bahrain, Bangladesh, Bolivia, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Central African Republic, Chad, Chile, China, Colombia, Comoros, Côte d'Ivoire, Cuba, Czech Republic, Djibouti, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, France, Germany, Ghana, Guatemala, Guinea, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Italy, Japan, Kenya, Lebanon, Lesotho, Liberia, Malawi, Mali, Malaysia, Mauritania, Mexico, Morocco, Myanmar, Nepal, Niger, Nigeria, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Romania, Russian Federation, Rwanda, Saudi Arabia, Senegal, Sierra Leone, South Africa, Sri Lanka, Sudan, Syrian Arab Republic, Tajikistan, Thailand, Togo, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, Uruguay, United States of America, Venezuela, Yemen, Zaire and Zimbabwe. The Special Rapporteur also transmitted one case to the Palestinian Authority.

33. The number of persons whose cases were transmitted is given in table 2. It should be noted, however, that, on the basis of experience gained, statistical

methods were rationalized several times during the years under review. As a result, a comparison of figures regarding number of cases among the years may present a misleading picture. While, at first, groups of unidentified persons were included in the statistics, during the past two years the Special Rapporteur excluded unidentified persons, unless they could easily be identified. This is due, in particular, to the fact that during these years the Special Rapporteur acted increasingly on behalf of large groups for which only an approximative number of individuals was known, such as groups of refugees, internally displaced persons, members of a certain family, inhabitants of a particular village or civilians of a specific town. During 1994, considerably fewer cases were processed owing to a severe shortage of staff assisting the Special Rapporteur in the discharge of his mandate during that year.

Table 2

Number of cases sent by the Special Rapporteur since 1992

Year	Number of cases	Number of Governments
1992	1 900	40
1993	2 300	51
1994	700	45
1995	820	71
1996 a/	1 190	46

a/ Up to 1 September 1996.

34. Other allegations of a more general nature were transmitted to concerned Governments with requests to clarify the substance of these allegations and/or to provide the Special Rapporteur with more specific information, such as legal texts and other relevant documents. These general allegations include, for example, reports about persistent impunity or legislation alleged to be in contravention of restrictions on the application of capital punishment contained in pertinent international instruments.

D. Government replies and follow-up communications

35. As mentioned above, all communications sent by the Special Rapporteur to Governments are accompanied by requests for specific information in response to specific questions. Despite the Commission's adoption of several resolutions urging Governments to provide replies to the Special Rapporteur's communications, many queries by the Special Rapporteur remained unanswered.

36. The Commission on Human Rights first requested the Special Rapporteur to follow up on allegations of extrajudicial, summary or arbitrary executions in 1992. The Special Rapporteur believes that follow-up efforts should focus on

how Governments comply with their obligation under international law to conduct full, independent and impartial investigations into all allegations of extrajudicial, summary or arbitrary executions transmitted to them, with a view to clarifying the circumstances, identifying and prosecuting those responsible, granting compensation to the victims or their families and preventing future violations.

37. Pursuant to the request of the Commission, the Special Rapporteur sent follow-up communications to numerous Governments with respect to transmitted allegations for which no reply had been received or for which replies had been received that could not be considered satisfactory. The latter included those of a general character, those indicating that investigations had not yet been finalized and were closed for lack of evidence, or those in which Governments argued that the allegations were factually incorrect or provided a different explanation of the events leading to the death of the person in question. Table 3 shows on a yearly basis the number of Governments to which the Special Rapporteur transmitted allegations, the number of Governments that replied, and the number of follow-up communications sent.

Table 3

Government communications since 1992

Year	Number of Governments to which urgent appeals and/or cases were transmitted	Number of Governments that provided replies	Number of Governments to which follow-up communications were sent
1992	54	26	-
1993	69	38	30
1994	65	33	35
1995	87	41	20
1996 a/	54	37	46

a/ Up to 1 September 1996.

38. The Special Rapporteur also addressed letters to sources of allegations informing them of the contents of government replies concerning the cases they submitted. In those letters, the Special Rapporteur requested that the sources provide the Special Rapporteur with additional comments or observations. In cases where the reply from a source contradicted the Government's response, the Special Rapporteur also sent a follow-up communication to the Government, requesting that it provide him with additional information. In general, the Special Rapporteur requests answers to specific questions to enable him to form

a conclusion on the merits of the allegations and the veracity of the information provided by Governments and sources respectively.

E. Visits

39. The Special Rapporteur considers on-site visits an essential component of his mandate. The aim of such visits is to obtain first-hand information on the situation of the right to life in the countries visited, to report on his findings and to propose, in a spirit of cooperation and assistance, recommendations to improve situations identified as matters of concern.

40. During the period under review, the Special Rapporteur conducted visits to the territory of the former Yugoslavia, Peru, Rwanda, Indonesia and East Timor, Colombia, Burundi and Papua New Guinea. The visit to Colombia was undertaken with the Special Rapporteur on torture. At the Commission's request, he also accompanied the Special Rapporteurs on Yugoslavia and Rwanda. A visit to Nigeria with the Special Rapporteur on the independence of judges and lawyers is scheduled for 1996. The Special Rapporteur has outstanding invitations from the Governments of Algeria and Sri Lanka for visits. The Governments of Azerbaijan and Gabon extended invitations to the Special Rapporteur, which he was unable to honour in the light of other priorities.

41. The selection of countries that he wishes to visit is made by the Special Rapporteur primarily on the basis of the number and gravity of allegations and reports he receives concerning violations of the right to life occurring in the given country. In addition, the absence of adequate responses from the Government or recurrent contradictions between information received from the source and the Government may trigger the Special Rapporteur's interest in visiting a country.

42. Repeated demands to extend an invitation for a visit were forwarded to the Governments of Bangladesh, China, India, Mexico, Nigeria, Tajikistan, Turkey and the United States of America. Despite the fact that the Government of Turkey, in principle, accepted a visit, further efforts by the Special Rapporteur have not yet led to such a visit. The Government of Bangladesh declined the proposal of the Special Rapporteur.

43. In conformity with requests made by the Commission on Human Rights in its resolutions on the mandate, the Special Rapporteur intends to maintain close contact with Governments of the countries visited to assist them, to the maximum extent possible, with the implementation of recommendations he issued following his missions. Follow-up visits within a reasonable period of time are also envisaged. The Special Rapporteur received an invitation for such a visit from the Government of Colombia.

44. The Special Rapporteur wishes to reiterate that an on-site visit does not entail the condemnation of a country. Instead, it is envisaged as an expression of concern and aims at improving his understanding of a particular situation to enable him to formulate useful recommendations. Also, visits do not have the character of a judicial inquiry; they cannot replace investigations by competent judicial authorities.

F. Other activities

45. The Special Rapporteur issued press releases following his submission of annual reports and reports on country visits to the Commission on Human Rights. In addition, press releases were issued at the Special Rapporteur's request with a view to publishing certain activities and to inform the general public of his concern about some specific country situations. In order to enhance public awareness of the mandate, the Special Rapporteur offered interviews to, inter alia, the British Broadcasting Corporation (BBC), Africa Number 1, Radio France International, and the Australian Broadcasting Corporation, and to newspapers from various countries. Moreover, in many instances, the Special Rapporteur gave press conferences during his country visits.

46. The Special Rapporteur regularly consulted with non-governmental organizations or participated as a resource person in meetings and conferences organized by them. The Special Rapporteur also received a number of invitations from universities or academic institutions to present lectures on his mandate and/or related issues, which he accepted when the availability of funds and time permitted.

47. The Special Rapporteur's cooperation with the United Nations High Commissioner for Human Rights and with other United Nations bodies in the implementation of his mandate is discussed in chapter VI, section C.

IV. SITUATIONS INVOLVING VIOLATIONS OF THE RIGHT TO LIFE

A. Capital punishment

48. Since 1993, the Commission on Human Rights has reiterated its request to the Special Rapporteur to continue monitoring the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment, bearing in mind the comments made by the Human Rights Committee in its interpretation of article 6 of the International Covenant on Civil and Political Rights, as well as the Second Optional Protocol thereto.

49. The Special Rapporteur received numerous and/or alarming allegations about legislation and state practices leading to the imposition and execution of death sentences where the defendants did not fully benefit from international guarantees and safeguards. Such reports concerned, inter alia, China, Egypt, the Islamic Republic of Iran, Iraq, Kuwait, Nigeria, Pakistan, Saudi Arabia and the United States of America.

50. As to death sentences handed down on persons convicted of crimes committed when they were under 18 years of age, or legislation permitting the imposition of capital punishment on minors, whether or not that legislation was applied in practice, the Special Rapporteur received reports and allegations regarding China, the Islamic Republic of Iran, Pakistan and the United States of America. The Special Rapporteur is particularly concerned about the situation in the United States of America, where a relatively high number of death sentences are imposed, and carried out, on minors as well as on mentally retarded persons.

51. More detailed information on capital punishment can be found in chapter VI, section A, in which issues of special concern to the Special Rapporteur are discussed.

B. Death threats

52. Reports and allegations alerting the Special Rapporteur to situations in which the lives and physical integrity of persons are feared to be at risk account for a large part of the information brought to his attention. The transmission of urgent appeals with the aim of preventing loss of life are therefore an essential part of the Special Rapporteur's mandate.

53. During the period under review, the Special Rapporteur expressed concern about the pattern of intimidation and threats, often followed by extrajudicial, summary or arbitrary executions, persisting in Brazil, Colombia, El Salvador, Guatemala and Peru. In each country, the lives of human rights activists, members of the political opposition, trade unionists, community workers, religious activists, writers and journalists were reported to be at serious risk. At present, the Special Rapporteur is especially concerned about the situation in Mexico, where he noted a sharp increase in death threats and intimidation of human rights activists, members of political parties and journalists during 1996. In this context, he also remains concerned about the situation in Colombia.

C. Deaths in custody

54. The Special Rapporteur received several allegations and reports concerning deaths in custody in Algeria, Armenia, Australia, Bulgaria, Cambodia, Colombia, China, Cuba, Egypt, India, Indonesia, the Islamic Republic of Iran, Israel, Kenya, Myanmar, Nigeria, Pakistan, Peru, the Philippines, Senegal, the Sudan, Syrian Arab Republic, Tajikistan, Tunisia, Turkey, Ukraine and the United Kingdom of Great Britain and Northern Ireland.

55. Deaths alleged to be the result of torture or other cruel, inhuman or degrading treatment were reported in many countries, including Cameroon, China, Egypt, India, Indonesia, the Islamic Republic of Iran, Israel, Kenya, Mexico, Morocco, Nepal, Pakistan, Peru, South Africa and Turkey. The Special Rapporteur also received allegations of deaths in custody owing to medical neglect or otherwise untenable prison conditions in the following countries: Azerbaijan, Colombia, Gabon, Kenya, Mongolia, Morocco, Nigeria, Syrian Arab Republic, Tajikistan and Togo.

56. The Special Rapporteur is concerned about the persistence of allegations of deaths in custody, suggesting patterns of violence against detainees, often with a lethal outcome, in a number of countries including China, Egypt, India, Pakistan and Turkey. He is also concerned that in several countries, inter alia, Australia, Bulgaria, France and the United Kingdom, a high percentage of the allegations of deaths in custody concerned persons belonging to ethnic, linguistic or national minorities. The Special Rapporteur is especially worried that, as a general rule, and not only in countries where a

pattern of deaths in custody appears to exist, there is little indication of effective action by state authorities to bring to justice those responsible for this type of violation of the right to life.

D. Deaths as a result of excessive use of force by law enforcement officials

57. The Special Rapporteur received a considerable number of allegations concerning violations of the right to life as a consequence of excessive use of force by police and security officers. Allegations in this category were reported in many countries, including Angola, Bahrain, Bangladesh, Bolivia, Brazil, Burkina Faso, Cambodia, Chad, China, Colombia, Cuba, Egypt, El Salvador, Guatemala, India, Indonesia, Iraq, Israel, Kenya, Mexico, Nigeria, Peru, the Philippines, South Africa, Sri Lanka, Turkey and the United Kingdom. The Special Rapporteur was particularly shocked by reports concerning the deliberate use of firearms by Israeli security forces and Brazilian military police against young children.

58. Participants in demonstrations were reportedly killed by members of security forces using excessive force in, inter alia, Bahrain, Bangladesh, Chad, Chile, India, Indonesia and East Timor, Mexico, South Africa and Zaire. Excessive force was used by law enforcement officials in places of detention in countries such as Brazil and Turkey.

E. Deaths as a result of attacks by civil defence forces and paramilitary groups

59. Members of paramilitary groups or armed individuals cooperating with security forces or operating with their acquiescence were also reported to have resorted to arbitrary and excessive force. In some instances, such groups were reported to have been established by security forces themselves; in other cases, they were said to be at the service of individuals and/or organizations for the defence of a particular interest, in many cases of an economic nature. Violations of the right to life by paramilitary groups were reported in Brazil, Colombia, El Salvador, Guatemala, Haiti, Mexico, Peru, the Philippines and Turkey.

60. The Special Rapporteur is extremely concerned about the situation in Colombia. During 1996, he continued to receive a large number of allegations and reports of massacres committed by paramilitary groups, such as the killing of 14 persons, including two minors, on 22 April in Segovia, and the killing of 11 persons, including a six-year-old child, on 3 April in Antioquia.

61. The Special Rapporteur was also distressed by allegations that, on 9 February 1996 seven persons from one family, including four minors and one 86-year-old man, were killed in Buenavista, Philippines by members of the Civilian Volunteers Organization, a group of citizens operating as a paramilitary group, which is sanctioned by the Government and has the task of checking rebel activities.

F. Violations of the right to life during armed conflicts

62. The Special Rapporteur received numerous reports suggesting that deaths as a consequence of armed conflicts continue to occur on an alarming scale. Reports of killings of persons hors de combat, and in particular of civilians during internal armed conflicts, were received from Afghanistan, Angola, Armenia, Azerbaijan, Bosnia and Herzegovina, Burundi, Colombia, Croatia, Djibouti, Guatemala, Mexico, Myanmar, Rwanda, Somalia, Sri Lanka, Tajikistan, Turkey and Yemen.

63. Many thousands of persons not participating in armed confrontations were said to have lost their lives as direct victims of conflicts, for example through indiscriminate shelling or deliberate executions, or indirectly, as a consequence of blocking the flow of water, food and medical supplies. Such measures were reported to have particularly affected children, the elderly and those in poor health.

64. In addition to the allegations transmitted by letter to the Governments concerned, the Special Rapporteur also sent a number of urgent appeals on behalf of groups of civilians in specified towns or areas which were at risk of being attacked by government armed forces in Burundi, the Russian Federation (Chechnya) and Sri Lanka.

65. Communal violence, understood as acts of violence committed by one ethnic, religious, linguistic, national or social group against another group, was reported in Bangladesh, Burundi, Cameroon, Chad, Djibouti, Mali, Nigeria and Somalia. Government forces are often said to support one side in the conflict or even instigate hostilities, rather than intervene to stop violence between different groups. The Special Rapporteur wishes to reiterate the warnings he included in his previous reports to the Commission on Human Rights that such conflicts, if allowed to continue, may degenerate into massacres or even genocide. The Special Rapporteur once again expresses his profound concern regarding the situation in the Great Lakes region.

66. In this context, the Special Rapporteur also wishes to address the problem of human rights violations committed by peacekeeping forces. Increasingly called upon to exercise peacekeeping tasks, United Nations personnel in many countries are operating under very difficult and often dangerous conditions. A large number of United Nations staff have on many occasions risked, and lost, their lives. However, reports have been received indicating that members of United Nations forces were themselves involved in extrajudicial, summary or arbitrary killings in Somalia. The Special Rapporteur is of the view that, as each State is bound under international law standards, an organization, such as the United Nations, has at least the same degree of responsibility.

67. The Special Rapporteur recommends that members of the United Nations field missions be held responsible for violations of rights and guarantees contained in international human rights instruments. It is desirable to envisage the institution of an organ within the United Nations, or within each peacekeeping or observer mission, to investigate human rights abuses by members of such mission and hold their authors responsible. Provisions should also be included to grant compensation to the victims of such abuses or, in the case of

extrajudicial killings, to their families. With a view to preventing such incidents, all members of peacekeeping and observer missions should receive thorough training in human rights matters, as well as in mediation and conflict resolution.

G. Genocide

68. The Special Rapporteur has observed a great reluctance in the international community to use the term "genocide", even when reference is made to situations of grave violations of the right to life which seem clearly to match the criteria contained in the Convention on the Prevention and Punishment of the Crime of Genocide. Article II of the Convention reads:

> "In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:
>
> "(a) Killing members of the group;
>
> "(b) Causing serious bodily or mental harm to members of the group;
>
> "(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
>
> "(d) Imposing measures intended to prevent births within the group;
>
> "(e) Forcibly transferring children of the group to another group."

69. The description of atrocities committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group as "ethnic cleansing" particularly seems to be a euphemism. Following his visits to the territory of the former Yugoslavia, the Special Rapporteur expressed the view that the deliberate and systematic nature of killing of Muslims and Croats by Serbs, the dissemination of pseudo-historical and political rationales for ethnic cleansing, the disarming of the populations concerned prior to the commencement of cleansing operations, and other circumstances, strongly suggest the existence of a policy of killing members of a national, ethnic or religious group, in whole or in part, consistent with the terms of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted in 1948.

70. In his report to the Commission on Human Rights on his mission to Rwanda, which took place from 8 to 17 April 1993, the Special Rapporteur indicated that, although it was not for him to pass judgement at that stage, the cases of intercommunal violence brought to his attention indicated very clearly that the victims of the attacks, Tutsis in the overwhelming majority of cases, had been targeted solely because of their ethnicity and for no other objective reason. He concluded that article II, subparagraphs (a) and (b), of the Convention on the Prevention and Punishment of the Crime of Genocide might therefore be considered to apply to those cases. The Special Rapporteur strongly regrets that the report on his visit did not receive attention from the Government or the Commission on Human Rights.

71. Article III of the Convention on the Prevention and Punishment of the Crime of Genocide stipulates that:

> "The following acts shall be punishable:
>
> "(a) Genocide;
>
> "(b) Conspiracy to commit genocide;
>
> "(c) Direct and public incitement to commit genocide;
>
> "(d) Attempt to commit genocide;
>
> "(e) Complicity in genocide"

and article IV that:

> "Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals."

72. In this respect, the Special Rapporteur urges the international community and all concerned States to cooperate fully with the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia and the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, particularly by arresting and handing over suspects, so as to bring to justice, as soon as possible, those responsible for the above-mentioned crimes.

73. At present, the Special Rapporteur is extremely concerned about the situation in Burundi, which, according to the Special Rapporteur on the situation of human rights in Burundi, is characterized by a long series of massacres and acts of genocide, 5/ and about the situation in the eastern part of Zaire, where ethnic conflicts have intensified and further escalation of violence is feared. 6/

H. Imminent expulsion of persons to a country where their lives are in danger

74. The Special Rapporteur received reports about the imminent extradition, refoulement or return of one or more persons to countries or areas where there are grounds to believe that their lives are at risk. During the period under review, allegations in this category were reported in, inter alia, Burundi, Germany, Macedonia, the Netherlands, Portugal (Macao), Sweden, Tajikistan and the United Republic of Tanzania.

I. Impunity

75. It is the obligation of Governments to carry out exhaustive and impartial investigations into allegations of violations of the right to life, to identify, bring to justice and punish their perpetrators, to grant compensation to the victims or their families, and to take effective measures to avoid future recurrence of such violations. The Special Rapporteur has noted that impunity continues to be the principal cause of the perpetuation and encouragement of violations of human rights, and, in particular, extrajudicial, summary or arbitrary executions. Impunity will be discussed in detail in chapter VI, section B.

J. Rights of victims

76. The rights of victims or their families to receive adequate compensation is both a recognition of the State's responsibility for the acts committed by its personnel and an expression of respect for the human being. Granting compensation presupposes compliance with the obligation to conduct investigations into allegations of human rights abuses with a view to identifying and prosecuting their alleged perpetrators. Financial or other compensation provided to the victims or their families before such investigations are initiated or concluded, however, does not exempt Governments from this obligation.

77. The Special Rapporteur is concerned about the numerous reports he has received indicating that in many cases no compensation was provided. In most cases, this seems to be the corollary of impunity. The Special Rapporteur regrets that, despite his requests in letters accompanying alleged cases of extrajudicial, summary or arbitrary executions, very few States have provided him with information in this respect.

78. The Special Rapporteur also notes that neither of the two Security Council resolutions establishing International Tribunals for the former Yugoslavia and for Rwanda contain provisions concerning compensation for the victims. The Special Rapporteur believes that the establishment of an international fund for reparation payments should be considered. Such a fund could be allocated for the payment of at least some compensation to the victims or their families and would undoubtedly enhance faith in the work of the Tribunals and people's willingness to cooperate with them.

V. ISSUES REQUIRING THE SPECIAL RAPPORTEUR'S ATTENTION

A. Violations of the right to life of women

79. During the period under review, the Special Rapporteur took action on behalf of more than 590 women. This figure reflects only the cases in which it was specifically indicated that the victim was female, but does not necessarily show the actual number of women on whose behalf the Special Rapporteur intervened. This is attributable mainly to two reasons: in some cases, sources do not indicate whether the victim is male or female and the gender cannot be

determined by the name; in other cases, allegations refer to groups of unidentified civilians, without gender specification.

80. The figure mentioned above shows that women make up a relatively low percentage of purported victims of violations of the right to life reported to the Special Rapporteur. The under-representation of women in the political and economic life of many countries implies that they are less perceived as a threat and therefore less exposed to acts of violence by Governments. However, in areas where women are actively participating in public life, they appear to be in a similar position as their male counterparts. Some examples in this regard include the following: death threats against novelist Taslima Nasram in 1993 in Bangladesh and Judge Antonia E. Saquicuray Sánchez in June 1995 in Peru; the attempted murder of Aida Abella, President of the Unión Patriótica of Colombia in May 1996; the killing of Lucina Cárdenas in Guatemala in December 1995; and the killing in February 1996 of Zahra Rajabi, a leading figure in the Iranian People's Mojahedin Organization in Turkey.

81. The Special Rapporteur took action on behalf of many other women whose lives were in danger or who had been killed in the following countries: Algeria, Argentina, Brazil, China, Colombia, Cuba, El Salvador, Ethiopia, Guatemala, India, Indonesia, Iran (Islamic Republic of), Liberia, Mexico, Myanmar, Nigeria, Papua New Guinea, Pakistan, Paraguay, Peru, the Philippines, Russian Federation, Sierra Leone, Singapore, South Africa, Sri Lanka, Sudan, Togo, Turkey, United Arab Emirates and United Kingdom of Great Britain and Northern Ireland.

82. The Special Rapporteur wishes to emphasize that, owing to a lack of human resources, an in-depth analysis of gender issues has not been feasible. In this respect, he refers to the recommendation made at the 3rd meeting of Special Rapporteurs, Representatives, Experts and Workings Groups of the Commission on Human Rights, during which concerted action by the United Nations Development Fund for Women, the United Nations Population Fund and the Centre for Human Rights was suggested, with a view to providing support in the recruitment of professionals who were experts on the human rights of women.

B. Violations of the right to life of minors

83. During the period under review, the Special Rapporteur took action on behalf of more than 495 minors. This figure reflects only the number of identified minors, whose ages were reported to the Special Rapporteur. The Special Rapporteur notes with regret that children continue to be victims of violations of the right to life in many countries. The types of violations to which children are exposed range from the death penalty to death in custody, death owing to abuse of force and death during armed conflicts. In Burundi, Liberia, Pakistan, Rwanda, the Russian Federation (Chechnya) and Sri Lanka, many children have allegedly been killed in the context of armed conflict or internal strife or have become victims of indiscriminate attacks.

84. The Special Rapporteur is particularly shocked by the large number of reports he has received on the use of lethal force by members of security forces against children and youths, which is the case in the Occupied Territories,

where a high number of youths were reportedly killed by members of the Israeli Defence Forces, particularly in 1993. The Special Rapporteur also received alarming reports of deliberate use of firearms by military police, security forces and police agents participating in "social cleansing" activities against street children in Brazil, Colombia and Guatemala. Children were also reported to have died in custody in several countries, including Bahrain, France and Germany. The Special Rapporteur was extremely concerned about the fact that, in the cases of France and Germany, the victims were minors of foreign origin or belonging to ethnic minorities.

85. The Special Rapporteur also intervened in cases of imposition of the death penalty on minors, for example in the cases of Salamaat Masih, a 13-year-old boy sentenced to death in Pakistan for blasphemy, and 15-year-old Sarah Balabagan, a Filipino girl sentenced to death in the United Arab Emirates for murder. The Special Rapporteur also sent urgent appeals in cases where the death penalty was imposed for crimes committed when the accused was a minor, namely, to the United States of America in the case of Johnny Frank Garrett. According to information received, since 1990, the Islamic Republic of Iran, Pakistan, Saudi Arabia, the United States of America and Yemen are known to have executed prisoners who were under 18 years of age at the time of the crime.

C. The right to life and mass exoduses

86. According to information received, massive displacements of populations resulted mainly in the context of armed conflicts, including indiscriminate military attacks against civilians during counter-insurgency operations, attacks by irregular armed groups, and by communal or inter-ethnic violence. For a broader overview of the phenomenon and its repercussions on various aspects of human rights, reference is made to the report on internally displaced persons submitted to the Commission on Human Rights by the representative of the Secretary-General, Mr. Francis Deng. 7/

87. Large-scale violations of human rights in armed conflicts, including the right to life, have led to massive displacements of populations in Afghanistan, Azerbaijan (Nagorno-Karabakh), Georgia (Abkhazia), Liberia, the Russian Federation (Chechnya), Sierra Leone, Sri Lanka, the Sudan and the former Yugoslavia.

88. Attacks by the army and paramilitary groups against the guerrillas in Colombia have also been reported to have led to the displacement of a large proportion of the population. In addition, it has been reported that, in Turkey, most of the population of Kurdish origin in the south-eastern part of the country has been displaced as a result of the confrontation between Turkish security forces and Kurdish Workers Party guerrillas. Conflicts between the Mexican Army and the Zapatista National Liberation Army caused large numbers of people to flee from the area of strife. The Jumma people of the Chittagong Hill tracts in Bangladesh, some of whom had sought refuge in India, are another example.

89. Displacement has also emerged as a result of ethnic violence, such as in Rwanda and Burundi. Confrontations between the Banyarwanda and the

autochthonous groups in North Kivu, Zaire have led to the displacement of population and has generated a new flow of refugees, this time Zairians seeking refuge in Rwanda, thus aggravating the already tense situation in the Great Lakes region. 6/

90. The Special Rapporteur has taken action concerning threats or violations of the right to life directed against refugees and internally displaced persons. Thus, in August 1996, he transmitted an urgent appeal, together with the Representative of the Secretary-General on Internally Displaced Persons, on behalf of internally displaced persons who were being transported from Khovaling district to Tavildara, an area of active armed conflict in Tajikistan. Additionally, in April 1996, he sent an urgent appeal on behalf of the civilian population in southern Lebanon, after Israel launched an attack on a United Nations compound in the village of Qana, which reportedly provided refuge to 400 civilians. Moreover, he transmitted urgent appeals after having been informed that Myanmar refugees living in Thailand were being attacked by the Democratic Karen Buddhist Organization, an armed group reportedly supported by the State Law and Order Restoration Council, Myanmar's military authority.

91. During 1995, he transmitted allegations regarding the Xamán massacre in Guatemala, in which 11 members of the resettled community Aurora 8 de Octubre of Kekchi origin were killed as a result of an attack by the armed forces. Allegations regarding acts of violence by members of the Force d'action rapide of the armed forces against displaced people, most of them members of the Afar community, in the Ariba suburb of the capital of Djibouti, were sent to the Government in 1994. In addition, the Special Rapporteur sent a letter to the Government of Liberia after having been informed of a massacre of up to 600 people at a camp for displaced people at Harbel, near Monrovia, on 6 June 1993.

92. In addition, in his previous report to the Commission on Human Rights, the Special Rapporteur expressed concern about the Kibeho camp massacre in Rwanda in April 1995, which caused a high number of casualties.

D. Violations of the right to life of persons exercising their right to freedom of opinion and expression

93. During the period under review, the Special Rapporteur has taken action on behalf of more than 2,000 persons who were said to have been killed or threatened with death for exercising their right to freedom of opinion and expression and peaceful assembly. The Special Rapporteur has continuously received reports concerning death threats, and killings of members of opposition political parties, trade unions, student movements, community organizations and human rights organizations, as well as of journalists and writers, in many countries, including Afghanistan, Algeria, Angola, Bangladesh, Brazil, Cambodia, China, Colombia, Djibouti, Egypt, El Salvador, Ethiopia, Guatemala, Honduras, India, Indonesia (East Timor), the Islamic Republic of Iran, Iraq, Israel, Mexico, Nepal, Nigeria, Pakistan, Peru, the Philippines, Rwanda, South Africa, Sri Lanka, Togo, Turkey and Uzbekistan.

94. The Special Rapporteur has repeatedly expressed his utmost concern regarding killings resulting from excessive use of force by law enforcement officials on participants in demonstrations.

E. The right to life and the administration of justice

95. The Special Rapporteur has taken action on behalf of persons involved in the administration of justice, particularly judges, prosecutors, lawyers, complainants and witnesses in judicial proceedings, who either received death threats or were killed. In this context, he sent communications to more than 15 countries.

96. These communications included the following:

(a) Urgent communications sent on behalf of the following persons: Federico Huber, lawyer in Argentina; prosecutors Mauricio Assayag and José Munhoz Pinheiro and Judge Maria Luiza Capiberibe, in Brazil; lawyers of the Corporación Colectivo de Abogados "José Alvear Restrepo", in Colombia; Mario Salvador Jiménez, Héctor Raúl Orellana and María Eugenia Villaseñor, judges at the Appeals Court of Guatemala; José Lavanderos Yáñez, lawyer in Mexico; Alberto Alderete, lawyer in Paraguay; Judge Antonia E. Saquicuray Sánchez and prosecutor Ana Cecilia Magallanes, in Peru; Fevzi Veznedaroglu and Metin Can, human rights lawyers in Turkey;

(b) Allegations sent regarding the killings of the following: Martin A. Parroquiano Cubidas, prosecutor in Colombia; Javier Alberto Barriga Vergel, lawyer in Colombia; Abdel-Harith Madani, lawyer in Egypt; Edgar R. Elias Ogaldez, judge in Guatemala; Jalil Andrabi, lawyer in India; Michael Okere Mute Esiri, lawyer in Nigeria; Patrick Kebbie, lawyer in Sierra Leone; and Meet Scirrhoid and Fail Canaan, lawyers in Turkey.

F. Violations of the right to life of persons belonging to national, ethnic, religious or linguistic minorities

97. During the period under review, the Special Rapporteur transmitted allegations to more than 17 Governments regarding persons belonging to national, ethnic, religious or linguistic minorities. Communications were sent on behalf of a large number of persons, belonging to the following minority groups: Chakmas in Bangladesh; Macaws indigenous people in Brazil; Roma community in Bulgaria; Shua Arabs in Cameroon; Tibetans in China; members of various indigenous communities in Colombia and Mexico; members of the Afar ethnic group in Djibouti; members of the Cakchikel indigenous group in Guatemala; leaders of Christian churches in the Islamic Republic of Iran; Marsh Arabs in Iraq; Palestinians in Israel; Tuaregs in Mali; members of the Karen ethnic minority in Myanmar; Ogonis in Nigeria; Christians in Pakistan; Kurds in Turkey; African Americans in the United States of America; Yucpa indigenous people in Venezuela; and Kasaians and Banyarwanda in Zaire.

G. Violations of the right to life and terrorism

98. The Special Rapporteur is aware of the waves of violence caused by armed opposition groups resorting to terrorism as a tactic of armed struggle against Governments. He is aware that violent acts committed by such groups have led to killings of many innocent civilians in a number of countries, including Algeria, Colombia, Egypt, France, India, Israel, Pakistan, Sri Lanka, the Sudan and Turkey.

99. The Special Rapporteur expresses his repugnance at terrorist acts and understands the difficulties that the concerned Governments face in controlling violence by terrorist groups. However, he has noted that, in some countries, the Government's reaction to terrorist groups has resulted in counter-insurgency strategies aimed at targeting those suspected to be members, collaborators or sympathizers of those groups. In this context, the Special Rapporteur wishes to emphasize that the right to life is absolute and must not be derogated from, even under the most difficult circumstances. Governments must respect the right to life of all persons, including members of armed groups even when they demonstrate total disregard for the lives of others.

100. The request made by some Governments for the Special Rapporteur to take action with respect to killings committed by terrorists is to be noted. However, he wishes to emphasize that violent acts committed by terrorist groups do not fall within the purview of his mandate, as he can only take action when perpetrators are somehow linked to a State. Nevertheless, he wishes to mention that he continues to receive reports of killings by terrorists of members of security forces and civilians, with the aim of spreading terror and insecurity within the population. Reports of this nature have been received regarding Algeria, Colombia, Egypt, India, Israel, Peru, the Philippines and Turkey.

H. Violations of the right to life of staff members of the United Nations and of the specialized agencies

101. The Special Rapporteur is extremely concerned about killings of and death threats against United Nations staff and members of humanitarian organizations. He deeply regrets the killings of three representatives of the International Committee of the Red Cross (ICRC) on 4 June 1996 in the province of Cibitoke, Burundi. In his report on his mission to Burundi, 8/ the Special Rapporteur referred, inter alia, to the alleged killing in August 1994 of a staff member of the Office of the United Nations High Commissioner for Refugees (UNHCR) by military personnel in Kirundo, as well as the death threats received by the commander of the Organization of African Unity (OAU) observer mission in Muyinga. The Special Rapporteur took action on behalf of Carmelo Soria, a United Nations staff member killed in Chile.

102. In addition, the Special Rapporteur deplores the large number of deaths of United Nations peacekeepers, which were connected for the most part with the armed conflicts in the former Yugoslavia and Somalia.

103. The Special Rapporteur calls on all Governments to ratify the 1994 Convention on the Safety of United Nations and Associated Personnel, the

provisions of which place on them an obligation to ensure the safety and security of United Nations personnel, including United Nations peacekeepers, as well as persons deployed by humanitarian non-governmental organizations and agencies that are under an agreement with the Secretary-General or a specialized agency.

VI. ISSUES OF SPECIAL CONCERN TO THE SPECIAL RAPPORTEUR

A. Capital punishment

104. The Special Rapporteur's action in response to allegations of violations of the right to life in connection with capital punishment has been guided by the following principles:

(a) The desirability of the abolition of the death penalty;

(b) The need to ensure the highest possible fair trial standards;

(c) The observance of special restrictions on the application of the death penalty.

1. Desirability of the abolition of the death penalty

105. Although capital punishment is not yet prohibited under international law, the desirability of its abolition has been strongly reaffirmed on different occasions by United Nations organs and bodies in the field of human rights, inter alia, the Security Council, 9/ the Human Rights Committee 10/ and the General Assembly. 11/ In the same vein, reference to the report of the Secretary-General on capital punishment, submitted to the Economic and Social Council in 1995, 12/ is of relevance. Reference should also be made to the worldwide survey carried out by the Crime Prevention and Criminal Justice Branch of the United Nations Secretariat on developments with regard to capital punishment. 13/ In addition, the Special Rapporteur has been informed that new members joining the Council of Europe are required to sign within one year and ratify within three years after joining the organization, the Sixth Optional Protocol to the European Convention, and are also required to place a moratorium on executions immediately thereafter.

106. During his years in office, the Special Rapporteur has received, with concern, reports of the extension of the scope or reinstatement of the death penalty in a number of countries, to offences previously not punishable by death. The Special Rapporteur expressed concern about such tendencies in Bangladesh, China, Côte d'Ivoire, Egypt, the Gambia, Guatemala, Kuwait, the Libyan Arab Jamahiriya, Pakistan, Peru, Nigeria, Saudi Arabia and the United States of America.

107. It is worth emphasizing that article 6, paragraph 2, of the International Covenant on Civil and Political Rights provides that, "in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes ...". In its comments on article 6 of the Covenant, the

Human Rights Committee stated that the expression "most serious crimes" must be read restrictively to mean that the death penalty should be a quite exceptional measure. In addition, paragraph 1 of the safeguards guaranteeing protection of the rights of those facing the death penalty, approved by the Economic and Social Council in its resolution 1984/50 of 25 May 1984, states that the scope of crimes subject to the death penalty should not go beyond intentional crimes with lethal or other extremely grave consequences. In this regard, the Special Rapporteur wishes to express his concern about the fact that certain countries, namely China, the Islamic Republic of Iran, Malaysia, Singapore, Thailand and the United States of America, maintain in their national legislation the option to impose the death penalty for economic and drug-related offences.

108. Given that the loss of life is irreparable, the Special Rapporteur strongly supports the conclusions of the Human Rights Committee and emphasizes that the abolition of capital punishment is most desirable in order fully to respect the right to life. He also wishes to mention that, while there is a fundamental right to life, there is no such right to capital punishment. In this context, he welcomes the fact that, on 28 November 1995, the Government of Spain removed the death penalty from the Military Penal Code, and that in Mauritius, the Parliament passed a bill abolishing the death penalty for all offences.

109. He welcomes decisions such as the judgement of the Judicial Committee of the Privy Council of the United Kingdom of Great Britain and Northern Ireland, wherein the execution of a death sentence five years after it had been passed was found to constitute cruel and inhuman punishment. The Supreme Court of Zimbabwe reportedly reached a similar conclusion in another case. While welcoming these decisions, the Special Rapporteur expresses concern that they may encourage Governments to carry out executions of death sentences more speedily. In this respect, he wishes to refer to Glen Ashby in Trinidad and Tobago, who was executed 4 years and 11 months after having been sentenced to death, while appeal procedures were still pending.

2. Fair trial

110. In monitoring the application of existing standards relating to the death penalty, the Special Rapporteur has directed his attention in particular to trial procedures leading to the imposition of capital punishment. All safeguards and due process guarantees, both at pre-trial stages and during the actual trial, as provided for by several international instruments, 14/ must be fully respected in every case.

111. The Special Rapporteur wishes to reiterate that proceedings leading to the imposition of capital punishment must conform to the highest standards of independence, competence, objectivity and impartiality of judges and juries, as found in the pertinent international legal instruments. All defendants facing the imposition of capital punishment must benefit from the services of a competent defence counsel at every stage of the proceedings. Defendants must be presumed innocent until their guilt has been proved beyond a reasonable doubt, in strict application of the highest standards for the gathering and assessment of evidence. In addition, all mitigating factors must be taken into account. The proceedings must guarantee the right to review of both the factual and the

legal aspects of the case by a higher tribunal, composed of judges other than those who dealt with the case at the first instance. The defendant's right to seek pardon, commutation of sentence or clemency must also be ensured

112. The Special Rapporteur is particularly concerned about impositions of the death penalty by special jurisdictions. These jurisdictions are often set up as a response to acts of violence committed by armed opposition groups or in situations of civil unrest, in order to speed up proceedings leading to capital punishment. Such special courts often lack independence, since sometimes the judges are accountable to the executive, or are military officers on active duty. Timelimits, which are sometimes set for the conclusion of the different trial stages before such special jurisdictions, gravely affect the defendant's right to an adequate defence. The Special Rapporteur also expressed concern about limitations regarding the right to appeal in the context of special jurisdictions. This is particularly worrying as these special jurisdictions are generally established in situations where rampant human rights violations already exist. During the period under review, reports in this regard included the following countries: Algeria, Egypt, Kuwait, Malawi, Nigeria, Pakistan and Syrian Arab Republic.

113. The case of Ken Saro-Wiwa, writer, environmentalist and President of the Movement for the Survival of the Ogoni People (MOSOP), and eight other Ogonis, sentenced to death allegedly after an unfair trial by the Civil Disturbances Special Tribunal in Port Harcourt, Rivers State, is a clear example. The members of the Tribunal were, reportedly, appointed by the Government, among which was a member of the armed forces.

114. Reports regarding the secrecy surrounding the trial and application of the death penalty in a number of States, in particular Belarus, China and Ukraine, are most disturbing. In this connection, the Special Rapporteur wishes to emphasize the fundamental importance of the right to a public trial. It has also been brought to the Special Rapporteur's attention that in some countries there is considerable official reluctance to reveal statistical information on the death penalty. This secrecy reportedly affects family members, who are not informed in advance of the date of a relative's execution and have no right to the body after execution. 15/

3. Observance of special restrictions on the application of the death penalty

115. Capital punishment is prohibited for juvenile offenders under international law. Article 6, paragraph 5, of the International Covenant on Civil and Political Rights stipulates that "sentence of death shall not be imposed for crimes committed by persons below eighteen years of age ...". This principle has been embodied and reiterated in other international instruments. 16/ Imposition of capital punishment on mentally retarded or insane persons, pregnant women and recent mothers is also prohibited. In this respect, the Special Rapporteur wishes to express his utmost concern regarding information, according to which, since 1990, the Islamic Republic of Iran, Pakistan, Saudi Arabia, the United States of America and Yemen are known to have executed prisoners who were under 18 years of age at the time of the crime. He is deeply

concerned about legislation in China reportedly allowing for death sentences for minors.

116. In addition, the Special Rapporteur has received allegations concerning executions of mentally retarded persons in the United States of America. Similar reports were received concerning Kyrgyzstan.

117. The Special Rapporteur wishes to express his dismay at reports he received in 1995, according to which, in China, organs of executed persons were being used for transplants, and, in some instances, organs were removed even before execution took place. The Special Rapporteur communicated these allegations to the Government of China. In view of their gravity, he urges once again the authorities to undertake a thorough investigation into the matter and to inform him of the outcome.

B. Impunity

118. In his four reports to the Commission on Human Rights, the Special Rapporteur made ample reference to the obligation of States to conduct exhaustive and impartial investigations into allegations of violations of the right to life, to identify, bring to justice and punish their perpetrators, to grant adequate compensation to the victims or their families, and to take effective measures to avoid the recurrence of such violations. 17/

119. In addition, the Human Rights Committee has stated, both in its general comments on article 6 of the International Covenant on Civil and Political Rights and in a number of decisions, that States parties are required to investigate all human rights violations, particularly those affecting the physical integrity of the victim; to purge and try those responsible; to pay adequate compensation to the victims or their dependants; and to prevent the recurrence of such violations.

120. The Special Rapporteur continued to receive information that indicates that grave violations of the above-mentioned obligations have not abated. Impunity remains the principal cause for the perpetuation of violations of human rights, and particularly those of the right to life. The manner in which a Government reacts to human rights violations committed by its agents, through action or omission, clearly shows the degree of its willingness to ensure effective protection of human rights. Very often, statements and declarations in which Governments proclaim their commitment to respect human rights are contradicted by a practice of violations and impunity. The Special Rapporteur considers that even if in exceptional cases Governments may decide that perpetrators should benefit from measures that would exempt them from or limit the extent of their punishment, the obligation of Governments to bring them to justice and hold them formally accountable stands. 18/

121. In some cases, the basis for impunity lies in legislation that exempts perpetrators of human rights abuses from prosecution. In previous reports to the Commission, the Special Rapporteur referred to amnesty laws in El Salvador and Mauritania, as well as provisions granting immunity from prosecution to members of the security forces in Bangladesh (Penal Code) and South Africa

(Further Indemnity Act). The promulgation of an amnesty law in Peru in June 1995, or the selective amnesty granted in February 1995 by the Togolese National Assembly, are examples in this regard.

122. In other cases, despite the existence of legal provisions for the prosecution of human rights violators, impunity continues in practice. It has been reported that authorities often do not react to complaints filed by victims, their families or representatives, or by international entities, including the Special Rapporteur. In this context, it should be recalled that Governments are under an obligation to initiate inquiries into allegations, ex officio, as soon as they are brought to their attention, particularly where the alleged violation of the right to life is imminent and effective measures of protection must be adopted by the authorities. However, in some countries, more often than not, investigations are not conducted. In other countries, despite the fact that investigations are initiated, they are never concluded, or if they are, sentences imposed on perpetrators appear to be disproportionate to the gravity of the crime committed, for example in East Timor, following the Dili massacre. There are also instances where low-ranking officials are convicted while those in positions of command escape responsibility.

123. Victims of and/or witnesses to human rights violations, who assist in investigative efforts, have also been subject to intimidation and death threats. Such incidents have been reported particularly in Argentina, Brazil, Chad, Colombia, Guatemala, Mexico, Nigeria, Pakistan, Peru and Turkey.

124. Furthermore, problems related to the functioning of the judiciary, particularly its independence and impartiality, have also encouraged impunity. In some countries there is no independent judiciary that could conduct such investigations, or the justice system does not function in practice. Such was reported to be the case in Burundi, Cambodia, Chad, Rwanda and Zaire. In countries where the justice system does not function properly it is desirable that reforms be implemented to enable the judiciary to fulfil its functions effectively. In some cases, which warrant particular treatment because of their special nature or gravity, Governments may envisage establishing special commissions of inquiry, which must fulfil the same requirements of independence, impartiality and competence as judges in ordinary courts. The results of their investigations should be made public and their recommendations binding on the authorities. The Special Rapporteur is concerned that in some cases recommendations made by such commissions are not followed in practice, such as in the case of Indonesia and the Philippines, or do not fulfil the above-mentioned requirements, and become tools used to evade the obligation to undertake thorough, prompt and impartial investigations into violations of the right to life.

125. The Special Rapporteur expresses his concern about reports regarding trials of members of the security forces before military courts, where, it is alleged, they evade punishment because of an ill-conceived esprit de corps, which generally results in impunity. Countries such as Colombia, Indonesia and Peru are well-known examples. He welcomes, however, recent jurisprudence of the Federal Supreme Court of Brazil, which has established that in matters of crimes against children, the competent courts are the civilian tribunals, even if the perpetrators are military officers.

126. The Special Rapporteur also wishes to refer to the International Tribunals established under Security Council resolutions 808 (1993) and 955 (1994) for certain serious crimes, including violations of the right to life, committed in the former Yugoslavia and in Rwanda. The Special Rapporteur welcomes these initiatives. He appeals to all Governments to cooperate fully with these Tribunals, in the interest of holding responsible the authors of such crimes committed in the former Yugoslavia and Rwanda. Concerns have been raised as to the apparent selectivity with regard to the countries for which international tribunals have been established. In fact, the former Yugoslavia and Rwanda are not the only conflict areas where massive violations of human rights and humanitarian law justify such an institution. Others, such as Burundi, Cambodia, Liberia and the Sudan, come readily to mind.

127. The Special Rapporteur believes that two measures could be taken to help overcome this perception of selectivity and contribute to a more impartial and comprehensive approach to the problem of impunity. These measures are: (a) the establishment of a permanent international criminal court with universal jurisdiction over mass violations of human rights and humanitarian law; such an international criminal court would have to be bestowed with an adequate mandate and sufficient means to enable it to conduct thorough investigations and enforce the implementation of its decisions; and (b) the adoption of a convention, similar to the Convention against Torture, which would provide domestic courts with international jurisdiction over persons suspected of having committed mass violations of the right to life. Such a convention should also contain provisions for the allocation of a voluntary fund for victims.

C. Cooperation with the United Nations High Commissioner for Human Rights and other United Nations bodies

128. The Special Rapporteur accords great importance to cooperation with other United Nations bodies dealing with issues related to his mandate. This has taken the form of consultations, either on questions concerning the day-to-day operation of his mandate, or in the preparation of, and during, on-site visits. The missions to Rwanda and to the former Yugoslavia, during which the Special Rapporteur accompanied the Special Rapporteurs on Rwanda and on Yugoslavia, at the Commission's request, also evoke that spirit of cooperation. The joint visit to Colombia, undertaken with the Special Rapporteur on torture, as well as a joint mission to Nigeria, scheduled for 1996, with the Special Rapporteur on the independence of judges and lawyers, 19/ are other examples.

129. During his years in office, the Special Rapporteur has participated actively in efforts to increase coordination between different United Nations procedures. Thus, he has sought the cooperation of United Nations human rights monitoring missions based in certain countries, by sending to them copies of allegations he has transmitted to the respective Governments with a request for comments and observations. A letter in this regard was sent to the United Nations Observer Mission in Liberia (UNOMIL) and to the United Nations Operation in Somalia (UNOSOM).

130. The exchange of information regarding cases of common interest with treaty bodies, particularly the Committee on the Rights of the Child and the Human

Rights Committee, as well as with the United Nations High Commissioner for Refugees, is a further example of cooperation. In addition, recent annual meetings of special rapporteurs, special representatives, experts and chairpersons of working groups of the Commission on Human Rights have offered the various mechanisms of the Commission the opportunity to discuss matters of common interest and concern.

131. Efforts at coordination with the United Nations Crime Prevention and Criminal Justice Branch at Vienna culminated in the Special Rapporteur's participation in the fifth session of the Commission on Crime Prevention and Criminal Justice, held at Vienna from 21 to 31 May 1996.

132. As to coordination with the United Nations High Commissioner for Human Rights, the Special Rapporteur has had consultations regarding the former's visits to Indonesia and Colombia and the situation in Nigeria. In 1995, the Special Rapporteur drew the High Commissioner's attention to the serious situation in Burundi, and suggested that measures be taken to avoid further eruptions of violence. Coordination should also be strengthened regarding visits, in order to avoid any duplication of efforts. Furthermore, Special Rapporteurs should be involved in consultations before setting up United Nations High Commissioner for Human Rights field offices in countries of common concern. Such field offices are aimed at strengthening human rights mechanisms and should therefore include in their mandates the servicing of Special Rapporteurs.

133. The Special Rapporteur considers that there is a need for the High Commissioner to establish stronger links with other United Nations bodies and agencies dealing with human rights to improve coordination within the United Nations system.

VII. CONCLUDING REMARKS AND RECOMMENDATIONS

134. The Special Rapporteur is constrained to conclude that there is no indication that the number of violations of the right to life has decreased. The transmission of 818 urgent appeals and more than 6,500 cases of alleged violations of the right to life, as well as 131 follow-up communications to more than 80 countries during the period under review, offers an insight as to the magnitude of the occurrence of extrajudicial, summary or arbitrary executions worldwide.

135. One of the most prevalent targets of extrajudicial, summary or arbitrary executions continues to be persons involved in struggles, such as those to secure rights to land or to prevent or combat racial, ethnic or religious discrimination and ensure respect for social, cultural, economic, civil and political rights. Women, children, the elderly and the sick have not been spared. Even persons forced into exile and those who are internally displaced are not exempted.

136. Extrajudicial, summary or arbitrary executions, as a phenomenon, tends to be aggravated by a combination of many factors:

First, the inability of certain States to face social problems, particularly those linked to rapid urbanization and a growth in poverty, has provoked an increase in the application of the death penalty, especially with respect to the poor and members of minority groups. The Special Rapporteur wishes to emphasize that the right to life is the most fundamental of human rights. The imposition of capital punishment by States in contravention of the highest fair trial standards, proves the little value accorded by the State to human life and to the respect of human rights.

Secondly, the centrifugal forces at play on the international scene since the end of the cold war have, in some instances, placed peoples' identity at the centre of struggles aiming at the creation of States confined within the interest parameters of a single ethnicity, religion or nationality. This has often led to situations of unrest or civil war.

Thirdly, the absence of control in arms trafficking and the facility with which one can obtain funds through contraband and drug trafficking have facilitated the emergence of guerrillas and have rendered their activities economically profitable. Caught between government and guerrilla forces, left to fend for themselves, some populations are abandoned by both their Governments and the international community.

Lastly, the collapse of the judiciary in many States, which is often linked to the lack of a political will to render justice, has led to impunity and/or to a selective application of justice that results in a cycle of repression and vengeance. Once in place, this cycle leads populations into a situation of insecurity and aggravates their already precarious living conditions.

137. The Special Rapporteur acknowledges with regret his powerlessness in the face of the above-mentioned situations. The effectiveness of the Special Rapporteur's mandate is further hampered by the various impediments which are built into the United Nations framework. The Special Rapporteur is called upon to act on information transmitted to him, but the human resources at his disposal are increasingly disproportionate with respect to the large number of requests placed before him. This aspect of the problem is particularly regrettable in the light of the expectations created by a projection that United Nations mechanisms are equipped to provide protection to individuals and communities. In addition, there is no formal mechanism within the United Nations human rights structure to follow up on recommendations made by its experts. Furthermore, the capacity of the United Nations to prevent human rights crises, including genocide, is questionable.

138. Consequently, the Special Rapporteur urges the international community to assist in the establishment of a coherent multifaceted system of prevention of conflicts that would embody a rapid intervention component to avert the degeneration of situations where the threat of massive human rights violations exists. Such a system would involve the participation not only of United Nations organs but would also require the concerted effort of non-governmental organizations.

139. In this regard, the Special Rapporteur deplores the fact that the Convention on the Prevention and Punishment of the Crime of Genocide, which

treats not only the repression but also the prevention of genocide, has not gained the attention it deserves from the international community. This situation is particularly lamentable in the light of the fact that several States parties to the Convention are in possession of the financial and technical means to enable them to establish a system of rapid alert in regions where political situations are identified as being volatile.

140. Once human rights and humanitarian violations have been committed on a massive scale, there is no universal mechanism for the identification and prosecution of persons suspected to have instigated or participated in the commission of those crimes. Moreover, there is no permanent international judicial body that could ensure that the alleged perpetrators will be brought to justice, even where both the political will and a functioning judiciary are absent at the national level. In other words, the idea of a global village does not extend to the rule of law.

141. The Special Rapporteur considers that extrajudicial, summary or arbitrary executions can be prevented only if there is a genuine will on the part of Governments to enforce the safeguards and guarantees for the protection of the right to life of every person. Declarations of commitment to protection of the right to life by Governments are only effective if they are translated into practice. If the aim is protection of the right to life, the emphasis must be on prevention of violations of this fundamental right and their consequences, which are often irreparable.

Recommendations

142. The international community should concentrate its efforts on the effective prevention of further human rights crises, and on the implementation of existing standards for the protection of the right to life.

1. Capital punishment

143. States that have not ratified the International Covenant on Civil and Political Rights and, in particular, its Second Optional Protocol, are encouraged to do so. All States should bring their domestic legislation into conformity with international standards. States that enforce their capital punishment legislation should observe all fair trial standards contained in the relevant international legal instruments, in particular the International Covenant on Civil and Political Rights. In addition, Governments that continue to enforce such legislation with respect to minors and the mentally ill are particularly called upon to bring their domestic criminal laws into conformity with international legal standards.

144. States should provide in their national legislation a period of at least six months so as to allow a reasonable amount of time for the preparation of appeals to courts of higher jurisdiction and petitions for clemency before a death sentence imposed by a court of first instance is executed. Such a measure would prevent hasty executions while affording defendants the opportunity to exercise their rights to appeal. Officials responsible for carrying out an

execution order should be fully informed of the state of appeals and petitions for clemency of the prisoner in question, and should not proceed to an execution if an appeal or other recourse procedure is still pending.

145. An immutable fact remains that the loss of life is irreversible and judicial error irreparable. A wide range of experts in sciences such as criminology, sociology and psychology have expressed doubts concerning the deterrent effect of capital punishment. Therefore, Governments of countries in which the death penalty is still enforced are urged to deploy every effort that could lead to its abolition. The Special Rapporteur requests the General Assembly to adopt a resolution calling for the abolition of the death penalty.

2. Death threats

146. State authorities should conduct investigations with respect to all instances of death threats or attempts against lives that are brought to their attention, regardless of whether a judicial or other procedure has been activated by the potential victim. Governments should adopt effective measures to ensure full protection of those who are at risk of extrajudicial, summary or arbitrary execution.

147. In circumstances where certain state authorities or sectors of the civil society perceive political dissent, social protest or the defence of human rights as a threat to their authority, the central government authorities should take action to create a climate more favourable to the exercise of those rights and thus reduce the risk of violations of the right to life.

3. Death in custody

148. All Governments should ensure that conditions of detention in their countries conform to the Standard Minimum Rules for the Treatment of Prisoners and other pertinent international instruments. Governments should also deploy efforts to ensure full respect for international norms and principles prohibiting any form of cruel, inhuman or degrading treatment.

149. Prison guards and other law enforcement personnel should receive training on the observance of the aforementioned norms in performing their duties. Violations of the right to life committed by these state agents in the course of controlling prison disturbances and preventing prison escapes would be curbed if the agents took into consideration the rights of prisoners. All deaths in custody should be investigated by a body that is independent from the police or the prison authorities.

150. Because of the magnitude of the problem, the Special Rapporteur requests the General Assembly to call on the Commission on Human Rights to appoint a Special Rapporteur on prison conditions.

4. Excessive use of force by law enforcement officials

151. All Governments should ensure that their security personnel receive thorough training in human rights issues, particularly with regard to restrictions on the use of force and firearms in the discharge of their duties. Such training should include, for instance, the teaching of methods of crowd control without resorting to lethal force. Every effort should be made by States to combat impunity in this field.

5. Violations of the right to life during armed conflict

152. All States that have not yet done so are encouraged to ratify the four Geneva Conventions and two Additional Protocols. The training of members of the armed forces and other security forces should include substantive instruction on the content of these instruments in addition to the ones dealing with human rights.

153. Governments of countries in which terrorist groups are active should ensure that counter-insurgency operations are conducted in conformity with human rights standards so as to minimize the loss of lives.

6. Genocide

154. All Governments are encouraged to ratify the Convention on the Prevention and Punishment of the Crime of Genocide. The Special Rapporteur calls on States to pay due attention to the stipulations in the Convention concerning the prevention of genocide. Concerned States, assisted by the international community, should take all necessary measures to prevent acts of communal violence from degenerating into large-scale killings that may reach the dimension of genocide. States in which acts of communal violence occur should do their utmost to curb such conflicts at an early stage, and to work towards reconciliation and peaceful coexistence of all segments of the population, regardless of ethnic origin, religion, language or any other distinction. Governments should at all times refrain from any propaganda or incitement to hatred and intolerance that might foment acts of communal violence or condone such acts.

155. The Special Rapporteur, pursuant to article 8 of the Convention on the Prevention and Punishment of the Crime of Genocide, encourages States parties to the Convention to call upon the competent organs of the United Nations to take action in order to prevent and suppress acts of genocide.

156. The Special Rapporteur calls on the General Assembly and/or the Commission on Human Rights to consider establishing a monitoring mechanism to supervise the application of the Convention on the Prevention and Punishment of the Crime of Genocide.

7. Imminent expulsion of persons to countries where their lives are in danger

157. Governments that have not yet ratified the Convention and the Protocol Relating to the Status of Refugees are called upon to do so. All Governments should at all times refrain from expelling a person in circumstances where respect for his or her right to life is not fully guaranteed. Refoulement of refugees or displacement of internally displaced persons to countries or areas where respect for their right to life is not fully guaranteed, as well as the closure of borders preventing the escape of persons trying to flee a country, should at all times be prohibited. Whenever a country is faced with a massive influx of refugees the international community should provide necessary assistance.

8. Impunity

158. All States should conduct exhaustive and impartial investigations into allegations of violations of the right to life, in all of its manifestations, and identify those responsible. They should also prosecute the alleged perpetrators of such acts, while taking effective measures to avoid the recurrence of such violations. To this effect, blanket amnesty laws prohibiting the prosecution of alleged perpetrators and violating the rights of the victims should not be endorsed.

159. The Special Rapporteur believes that the following measures could be taken to combat the problem of impunity: (a) establishment of a permanent international criminal court, with universal jurisdiction over mass violations of human rights and humanitarian law; such an international criminal court would have to be bestowed with an adequate mandate and sufficient means to enable it to conduct thorough investigations and enforce the implementation of its decisions; and (b) adoption of a convention, similar to the Convention against Torture, which would provide domestic courts with international jurisdiction over persons suspected of having committed mass violations of the right to life; such a convention should also contain provisions for the allocation of a voluntary fund for victims.

160. The Special Rapporteur welcomes the developments and discussions on the draft code on crimes against the peace and security of mankind and the draft statute on the establishment of an international criminal court and encourages the General Assembly to adopt them as soon as possible.

9. Rights of victims

161. All States should include in their national legislation provisions that allow for adequate compensation and facilitate access to judicial remedies to victims and the families of victims of violations of the right to life. States should endorse the principles set out in the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly in its resolution 40/34 of 29 November 1985, and incorporate them in their national legislation.

Notes

1/ E/CN.4/1992/30 and Corr.1.

2/ See E/CN.4/1993/46, chap. II.

3/ Until 1 September 1996.

4/ See the annex to the present report for the list of questions to which Governments are requested to reply.

5/ See, also, E/CN.4/1996/16/Add.1, para. 50.

6/ See E/CN.4/1997/6/Add.1.

7/ E/CN.4/1996/52.

8/ E/CN.4/1996/4/Add.1.

9/ Security Council resolutions 808 (1993) of 22 February 1993 and 955 (1994) of 8 November 1994 on the establishment of international criminal jurisdictions of the former Yugoslavia and Rwanda, respectively, excluded the death penalty, establishing that imprisonment was the sole penalty to be imposed by these tribunals for crimes as abominable as genocide and crimes against humanity.

10/ The Human Rights Committee, in its comments on article 6 of the Covenant on Civil and Political Rights, observed that this provision also refers generally to abolition in terms which strongly suggest that abolition is desirable (paras. 6(2) and (6)). The Committee concluded that all measures of abolition should be considered as progress in the enjoyment of the right to life.

11/ General Assembly resolutions 2393 (XXIII), 2857 (XXVI) and 39/118.

12/ E/1995/78 and Add.1 and Add.1/Corr.1.

13/ Fifth Survey on Capital Punishment and on the Implementation of Safeguards Guaranteeing the Protection of the Rights of Those Facing the Death Penalty, 1995.

14/ Articles 10 and 11 of the Universal Declaration on Human Rights, articles 9, 14 and 15 of the International Covenant on Civil and Political Rights, the safeguards guaranteeing protection for all those facing the death penalty, as well as Economic and Social Council resolution 1989/65.

15/ See Economic and Social Council resolution 1989/64, para. 5.

16/ Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) and the safeguards guaranteeing protection of the rights of those facing the death penalty.

17/ See Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Economic and Social Council resolution 1989/65, annex), which set forth in detail the above-mentioned obligations, and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

18/ See principle 19 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, which states, in part, "In no circumstances ... shall blanket immunity from prosecution be granted to any person allegedly involved in extra-legal, summary or arbitrary executions".

19/ At the time of finalizing the present report, no answer had been received from the Nigerian authorities regarding the mission.

Appendix

QUESTIONS TO WHICH GOVERNMENTS ARE REQUESTED TO REPLY IN REGARD TO ALLEGED CASES OF EXTRAJUDICIAL, SUMMARY OR ARBITRARY EXECUTIONS

1. What is the cause of death as indicated in the death certificate?

2. Was an autopsy conducted? If so, by whom? What are the results of the autopsy? (Please provide a copy of the complete autopsy report.)

3. Has a complaint, formal or informal, been made on behalf of the victim? If so, who made the complaint and what is their relation to the victim? To whom was the complaint made? What action was undertaken upon receipt of the complaint and by whom?

4. Which is the authority responsible for investigating the allegations? Which is the authority responsible for prosecuting the perpetrators?

5. Are any inquiries, judicial or other procedures in connection with the case under way? If so, please provide details of their progress to date, and the timetable envisaged for their conclusion. If such inquiries or procedures have been completed, please provide details of the conclusions reached. (Please attach copies of any relevant documents.) Are these conclusions definitive?

6. Has the person alleged to have carried out the extrajudicial, summary or arbitrary execution been identified? To which unit or branch of the police, security forces, armed forces or groups cooperating with them does he/she belong?

7. Have penal or disciplinary sanctions been imposed on the alleged perpetrators? If so, please provide details of the procedures followed to ascertain the penal or disciplinary responsibility of the perpetrators before imposing such penalties. If no such sanctions have been imposed, why not?

8. If no inquiries have been undertaken, why not? If the inquiries which were undertaken were inconclusive, why so?

9. Has any compensation been provided to the family of the victim? If so, please provide details, including the type and the amount of the compensation involved. If no compensation has been provided, why not?

10. Please provide such other information or observations concerning the present case as you consider relevant.

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ZONE OF PEACE AND COOPERATION OF THE SOUTH ATLANTIC

Report of the Secretary-General

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I. INTRODUCTION

1. At its fiftieth session, the General Assembly adopted resolution 50/18 of 27 November 1995 on a zone of peace and cooperation of the South Atlantic in which, inter alia, it took note of the report of the Secretary-General (A/50/671) and requested the relevant organizations, organs and bodies of the United Nations system to render all appropriate assistance that States of the zone might seek in their joint efforts to implement the objectives of the zone. The Assembly also requested the Secretary-General to keep the implementation of its resolution 41/11 of 27 October 1986 and subsequent resolutions on the matter under review and to submit a report to the Assembly at its fifty-first session, taking into account, inter alia, the views expressed by Member States.

2. Pursuant to the above resolution, the Secretary-General addressed a note verbale dated 23 April 1996 to the Governments of the States Members of the United Nations, requesting their views on the implementation of the declaration on the zone of peace and cooperation of the South Atlantic. On the same day, letters were also dispatched to the relevant organizations and bodies of the United Nations, requesting them to submit their contributions for the preparation of the report of the Secretary-General by 29 July 1996.

3. As of 30 September 1996, five Governments had replied and communications had been received from seven of the organizations and United Nations bodies addressed. Those replies are reflected in sections II and III of the present report. Any further replies received will be incorporated in an addendum to the report.

II. REPLIES RECEIVED FROM GOVERNMENTS

A. Argentina

[Original: Spanish]

[17 July 1996]

1. The Argentine Republic welcomes the results achieved at the 4th meeting of the States members of the zone of peace and cooperation of the South Atlantic, held at Somerset West, South Africa, on 1 and 2 April 1996, which strengthen the importance of its role as a regional instrument for coordination and dialogue.

2. The documents adopted by consensus at that meeting incorporate various elements of great significance to the zone. In particular, Argentina wishes to draw attention to the following:

(a) The member countries' continued support for the principles of respect for sovereignty and territorial integrity, together with the furtherance of democracy and political pluralism and the defence and promotion of human rights;

(b) Its continued commitment to the non-proliferation of weapons of mass destruction and the denuclearization of the South Atlantic;

(c) Cooperation and sharing of information with regard to the transport across the South Atlantic of highly radioactive materials, plutonium and highly radioactive nuclear waste;

(d) Recognition of the importance to the zone of the Agreement for the implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, adopted in New York on 4 August 1995; 1/

(e) The decision concerning cooperation against the demand, production and illicit traffic of narcotics and psychotropic substances.

3. The strengthening of the cooperation initiated, inter alia, in the above-mentioned areas will be valuable to the States members of the zone and, at the same time, will contribute to international peace and security. It is in this belief that the Argentine Republic will be pleased to welcome the fifth meeting of the members of the zone.

4. In conclusion, Argentina feels the need to emphasize once again, in the context of the South Atlantic, the persistence of the colonial situation of the Malvinas, South Georgia and South Sandwich Islands, in violation of the territorial integrity of the Republic. The normalization of bilateral relations with the United Kingdom of Great Britain and Northern Ireland, the continuing efforts by Argentina to promote cooperation, its express desire to recover sovereignty by peaceful means and in accordance with the principles of international law and the commitment assumed in its Constitution to respect the way of life of the inhabitants of the Malvinas Islands have failed to achieve any progress towards solving the dispute concerning sovereignty over these South Atlantic territories as repeatedly called for by the United Nations.

B. Brazil

[Original: English]

[20 August 1996]

1. The zone of peace and cooperation of the South Atlantic represents a valuable asset for the South Atlantic countries of Africa and Latin America. The Brazilian Government has pledged its support to its revitalization and believes that there are three main areas that seem promising in that regard: denuclearization of the region, protection of the marine environment and cooperation in the fight against the scourge of drug trafficking.

2. Brazil intends to promote the strengthening of a total ban on nuclear weapons in the South Atlantic, through the integration of the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco) and the African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba) which, together with the South Pacific Nuclear-Free-Zone Treaty (Treaty of Rarotonga) and the Treaty on the South-East Asia Nuclear-Weapon-Free Zone (Treaty of Bangkok), would rid the southern hemisphere of nuclear weapons.

3. The public commitment of the members of the zone to the protection of the marine environment has prompted Brazil to consider it both timely and convenient to adopt a specific convention on the issue, within the framework of the United Nations Convention on the Law of the Sea.

4. The new convention would set up mechanisms for cooperation for the protection of the marine environment, for the conservation of marine living resources, for preventing and containing environmental accidents and for promoting both the exchange of information and concerted action in these areas.

5. Brazil is also strongly committed to cooperating with the other members of the zone in the fight against the scourge of drug trafficking. Along with other members of the zone, Brazil participated in the fourth meeting of the States members of the zone at Somerset West, near Cape Town, South Africa, on 1 and 2 April 1996. Brazil fully subscribes to the terms of the final declaration and the decisions on drug trafficking, protection of the marine environment and illegal fishing activities.

6. The Government of Brazil is committed to continued cooperation with the members of the zone and looks forward to the 5th meeting to be held in Argentina.

C. Ecuador

[Original: Spanish]

[7 June 1996]

The Government of Ecuador wishes to state that it supported the adoption of General Assembly resolution 41/11 declaring the South Atlantic a zone of peace and cooperation, because it believes that such actions contribute to the maintenance of world peace and security. Although Ecuador is not situated in that geographical region, it wishes to pledge in advance any cooperation within its means that may be required by the States of the Atlantic basin.

D. South Africa

[Original: English]

[14 August 1996]

1. South Africa has been privileged, as the newest member of the zone of peace and cooperation of the South Atlantic, to confirm its commitment to the purposes and objectives, and become a full participant in word and deed, of the zone.

2. As referred to in paragraph 10 of resolution 50/18 of 7 December 1995, the fourth meeting of States members of the zone was held at Somerset West, South Africa, on 1 and 2 April 1996. The meeting was hosted by the South African Minister for Foreign Affairs under the theme: "Bridging the South Atlantic".

3. The meeting emphasized the need for cooperation between States members on marine and maritime matters. It adopted decisions to develop practical measures for protection of the South Atlantic marine environment and on illegal fishing activities.

4. The need for the promotion of business, trade and investment between members across the Atlantic also received attention. The meeting encouraged the Southern African Development Community (SADC), the Economic Community of West African States (ECOWAS) and the Southern Cone Common Market (MERCOSUR) to promote cooperation.

5. The meeting decided to call for closer cooperation between States members and especially their law enforcement agencies, in dealing with the illicit trafficking in narcotic drugs and psychotropic substances. The pandemic of acquired immunodeficiency syndrome (AIDS) was also discussed.

6. Participants welcomed the moves to democracy through the holding of elections in Benin and Sierra Leone and called upon parties to the peace process in Sierra Leone to redouble their efforts.

7. They expressed their concern about the question of the safe and secure transportation through the South Atlantic of irradiated nuclear fuels, plutonium and high-level radioactive wastes. They reiterated their wish to see progress towards the denuclearization of the South Atlantic and they noted that the various nuclear-weapon-free zone treaties, such as the Treaty of Pelindaba, would contribute to making the southern hemisphere free of nuclear weapons.

8. They expressed their conviction of the need for restructuring and revitalization of the United Nations body.

9. In conclusion, the meeting emphasized the role of regional and subregional integration in improving international competitiveness of national economies and in contributing to the development process. It encouraged States members further to investigate and implement means to facilitate business initiative in exploring and expanding economic cooperation and commercial links across the South Atlantic.

10. These enterprises were all considered within the context of enhancing South-South cooperation.

11. During its tenure as Chair, South Africa will endeavour to give tangible content to the above decisions, thereby reaffirming the validity of the zone as an instrument for promoting understanding and cooperation among South Atlantic countries, as well as for contributing to international peace and security. Certain issues are already being pursued and the Secretary-General will be kept informed.

12. South Africa in particular believes that the time is ripe to refocus the efforts of the zone on issues of common concern to the region and with potential benefit to all. South Africa welcomes indications that the economic and trade dimensions of the zone are being discovered and will receive increasing

attention, also at the 5th meeting that Argentina has offered to host. South Africa looks forward to involving itself in such initiatives.

E. United Kingdom of Great Britain and Northern Ireland

[Original: English]

[9 August 1996]

The Government of the United Kingdom of Great Britain and Northern Ireland welcomes the objectives of the resolution, which are to promote peace and cooperation in the South Atlantic. In this regard, they wish to draw the Secretary-General's attention to developments in Anglo-Argentine relations which have contributed to the lessening of tension in the south-west Atlantic. In particular, cooperation exists in the forum of the South Atlantic Fisheries Commission that has contributed to the conservation of stocks, and in the field of military confidence-building measures under the interim reciprocal information and cooperation system. In September 1995, the United Kingdom and Argentina signed a joint declaration on oil exploration in the south-west Atlantic.

III. REPLIES RECEIVED FROM ORGANIZATIONS AND BODIES OF THE UNITED NATIONS SYSTEM

A. Department of Humanitarian Affairs

1. In Liberia, United Nations agencies and non-governmental organizations have been providing humanitarian assistance during the past six years of civil strife. Following the Abuja Agreement reached in August 1995, significant and successful efforts were made to expand humanitarian activities throughout the country.

2. In Angola, the United Nations sponsors a humanitarian assistance programme which comprises emergency relief and resettlement activities, supports demobilization and reintegration of former combatants, and assists with mine clearance. These activities are geared to support the Lusaka Protocol signed in November 1994.

B. Department of Public Information

1. The adoption of General Assembly resolution 50/18 was highlighted by the Department of Public Information in its daily news programmes for broadcasting organizations worldwide, including the Radio Bulletin Board, and received emphasis in its press release service on 7 December 1995. United Nations information centres and services, particularly those located in the region, publicized the action taken by the General Assembly through their newsletters.

2. Questions relating to the purpose and objective of the zone of peace and cooperation of the South Atlantic were the subject of five radio magazine

programmes produced in four languages and distributed to about 800 broadcasting organizations worldwide.

3. The Department released the supplemented reports of the Secretary-General on An Agenda for Development and on An Agenda for Peace (second edition). Among the titles published in the Blue Books Series were "The United Nations and Mozambique", "The United Nations and Human Rights, 1945-1995", "The United Nations and the Advancement of Women, 1945-1995" and a revised version, "The United Nations and Somalia, 1992-1996", and "The United Nations and the Iraq-Kuwait Conflict, 1990-1996" and "The United Nations and Rwanda, 1993-1996".

4. In addition, 78 publications, such as press kits, backgrounders, booklets, and newsletters - totalling 400,000 copies in Arabic, Chinese, English, French, Spanish and Russian - were produced and distributed relating to such issues as the United Nations role in Angola, the situation in Rwanda, the principles of the Rio Declaration on Environment and Development, review of Agenda 21, treaty on high seas fishing, the Commission on Sustainable Development, United Nations peacekeeping operations, the chemical weapons Convention, human rights, security questions in Central Africa, the Fourth World Conference on Women, and the United Nations Conference on Human Settlements (Habitat II).

5. The news coverage service produced 400 press releases in English and French relevant to the issues emphasized in the resolution on a zone of peace and cooperation of the South Atlantic, as well as on meetings of intergovernmental bodies. Seventeen press releases dealt with Security Council meetings on resolving the conflicts in Haiti, Angola, Liberia, Burundi and Rwanda. These releases were transmitted, together with background notes and fact sheets, by both electronic mail and pouch to United Nations information centres and other offices of the United Nations system around the world, as well as through publicly accessible databases, such as Agora, APC, Gemnet and Togethernet and through UNDP gopher to Internet.

6. Through their newsletters, all United Nations information centres and offices have drawn attention to the efforts of the international community with regard to the establishment of a zone of peace and cooperation of the South Atlantic and its objectives. Commemorations, such a United Nations Day, provided important opportunities for information centres and other United Nations field offices to bring to the attention of large audiences the activities of the United Nations role in Angola and Liberia, as well as the importance of major United Nations conferences and the interrelationship between them. The information centres at Asuncion, Buenos Aires, Dakar, Rio de Janeiro, Washington, D.C., and Windhoek, and the United Nations Information Service at Geneva, as part of their regular activities, have highlighted matters related to the zone of peace and cooperation of the South Atlantic in press briefings, meetings with non-governmental organizations, film screenings and through public inquiries.

7. The interrelationship between major United Nations conferences and the objectives of the zone of peace and cooperation of the South Atlantic was the subject of 18 briefings given by the Department's non-governmental organization section for representatives of non-governmental organizations during the first half of 1996.

C. Economic Commission for Europe

In the light of paragraph 11 of General Assembly resolution 50/18 and the mandate of the Economic Commission for Europe (ECE) to assist developing countries of other regions, ECE stands ready to share its experience, particularly in transport of dangerous goods. ECE has developed excellent working relations with the Economic Commission for Africa (ECA) and the Economic Commission for Latin America and the Caribbean (ECLAC) and it could join forces in follow-up activities within its scope of expertise.

D. Economic Commission for Latin America and the Caribbean

1. The activities of the Economic Commission for Latin America and the Caribbean (ECLAC) refer basically to the follow-up of the recommendations of the meetings of experts on the law of the sea of the States members of the zone, in the framework of the results of the United Nations Conference on Environment and Development.

2. Considering that meetings of this kind have not been convened since 1991, the contribution of ECLAC to the goals of the various General Assembly resolutions on the item has been focused on the transmission of pertinent documentation on its activities in the areas of interest for the zone, such as the law of the sea, the follow-up of the United Nations Convention on Environment and Development and the implementation of specific international conventions like the Convention on Biological Diversity and the Basel Convention on the Control of the Transboundary Movements of Hazardous Wastes and their disposal.

3. In this connection, ECLAC has systematically remitted such documentation to Headquarters for submission to the coordinator of the zone, should it be deemed appropriate.

4. ECLAC would like to express its conviction of the need to revitalize mechanisms for the technical consultation among the States members of the zone, such as the former meetings on the law of the sea, since they represent suitable opportunities to look for efficient ways of assistance in the emerging challenges of sustainable development.

5. ECLAC feels that the work of the Commission on Sustainable Development and of the Administrative Committee on Coordination Subcommittee on Oceans and Coastal Areas provide adequate contexts to explore these possible ways of more active involvement with the objectives of the zone. In fact, the definition of some guidelines towards conservation and sustainable use of coastal and marine biodiversity in the implementation of the Convention on Biological Diversity, is a clear challenge faced by coastal developing countries in the rational use of their marine resources.

6. ECLAC, together with the regional Office for Latin America and the Caribbean of the Food and Agriculture Organization of the United Nations (FAO), and with the sponsorship of the Government of Brazil, is convening a technical meeting of Latin American experts on the conservation and sustainable use of

coastal and marine biodiversity, to be held at Tamandare, State of Pernambuco, Brazil, between 7 and 11 October 1996, in which it is expected to produce a contribution for the third meeting of the conference of the parties to the Convention on Biological Diversity to take place at Buenos Aires between 3 and 15 November 1996.

E. International Maritime Organization

1. If funds are available, the International Maritime Organization (IMO) can certainly assist within the zone of peace and cooperation of the South Atlantic to address the degradation of the marine environment resulting from sea-based activities and enhance their capacity to prevent and mitigate the impact of marine pollution, with particular emphasis on the implementation of internationally agreed standards for the protection of the marine environment. These include the International Convention for the Prevention of Pollution from Ships, 1973 (London, 1973), the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London, 1972) and the International Convention on Oil Pollution Preparedness, Response and Cooperation (London, 1990). Also relevant in this connection are the IMO conventions dealing with liability and compensation for marine pollution (the International Convention on Civil Liability for Oil Pollution Damage (Brussels, 1969), the Convention on the Establishment of an International Fund for Oil Pollution Damage, 1971, and their protocols.

2. IMO does not have funds of its own for technical cooperation activities but depends completely on the United Nations Development Programme, the World Bank, the United Nations Environment Programme (UNEP) and other multilateral-bilateral donors for the necessary support. However, IMO will be ready to assist the countries concerned with the preparation of project proposals for funding by these organizations.

F. United Nations Educational, Scientific and Cultural Organization

1. The United Nations Educational, Scientific and Cultural Organization (UNESCO) and its Intergovernmental Oceanographic Commission contribute to the implementation of General Assembly resolution 50/18, through the encouragement, promotion and support of regional cooperation among the countries of the region in the study and observations of the South Atlantic.

2. The Commission was founded in 1960 within UNESCO. The Commission serves the members of the United Nations family in their implementation of joint programmes relating to ocean research and observations. Some 125 countries are members of the Commission, including all countries of the South Atlantic region.

3. The purpose of the Commission is to promote marine scientific investigations and related ocean services, with a view to learning more about the nature and resources of the oceans through the concerted action of its members. The Commission, in accordance with its statutes, promotes scientific investigation of the oceans and application of the results thereof for the

benefit of all mankind and assists on request, member States wishing to cooperate to these ends. Activities are subject, in accordance with international law, to the regime for marine scientific research in zones under national jurisdiction.

4. Many countries of the South Atlantic region are already active in a number of international programmes coordinated by the Commission, including the study of the ocean in climate and global change, marine pollution, oceanographic data and information exchange, oceanographic observations and the study of the southern ocean.

5. In 1996, the Commission has continued its efforts to promote cooperation among the countries of the region particularly in developing a regional component of the Global Ocean Observing System initiated by the Commission in cooperation with the World Meteorological Organization, UNEP and the International Council of Scientific Unions (ICSU) in response to Agenda 21 of the United Nations Convention on Environment and Development and in support of the United Nations Framework Convention on Climate Change. Establishment of such system requires close cooperation and partnership among the countries of the region in ocean observations, data exchange and products preparation required for all forms of maritime use. Present Commission efforts are aimed at strengthening national capacities of the countries of the region to enable them to participate in the existing operational elements of the Global Ocean Observing System in the region, particularly the regional components of the Global Sea Level Observing System, the Integrated Global Ocean Services System, the Data Buoy Cooperation Panel, the International Oceanographic Data and Information Exchange and more active involvement of the countries of the region in the Commission's southern ocean programme.

6. More than 20 countries in the South Atlantic region participate in the Global Sea Level Observing System by establishing and maintaining Global Sea Level Observing System sea level measuring stations. Within the framework of the Global Sea Level Observing System, the Commission's training course on sea level observations and analysis directed to the African and South American Portuguese and Spanish-speaking countries was organized by Brazil in 1993. A similar training workshop will be organized by Argentina in September 1996 for specialists of countries of South America. Through the Commission, assistance has been provided to some countries of West Africa in the provision and installation of sea level measuring stations.

7. Within the data buoy programme coordinated jointly by the Commission and WMO, an international South Atlantic buoy programme was initiated in 1994. Several countries in the region and outside of the region cooperate in establishing and maintaining a network of drifting buoys (30-40 buoys deployed monthly) in the South Atlantic in order to provide meteorological and oceanographic data required for operational and research purposes.

8. Several countries of the region and outside of the region cooperate in systematic oceanographic and marine meteorological observations from ships along the fixed lines in the South Atlantic within the joint Commission-WMO Integrated Global Ocean Services System programme.

9. Within the Commission's southern ocean programme, the first southern ocean forum will be organized by the Commission in September 1996 in Germany to review ongoing research and services programmes in the southern ocean (related to climate, living marine resources, marine pollution, ocean observations and data/information exchange) and to formulate proposals on future activities of the Commission in the region.

10. The capacity-building actions are part of all the Commission programmes and also constitute a separate programme called Training, Education and Mutual Assistance in the field of marine science and services in order to ensure that national and regional needs can be properly addressed.

G. United Nations Industrial Development Organization

Although the United Nations Industrial Development Organization (UNIDO) has no projects directly related to General Assembly resolution 50/18, some projects could possibly contribute indirectly to the zone of peace and cooperation of the South Atlantic as follows:

(a) Expert group meeting on cooperation on environmental management in iron and steel industry in African and Arab regions, (i) Pretoria, 3-6 July 1995; (ii) Cairo, 22-25 May 1995; and (iii) Belo Horizonte, Brazil, 10 and 11 October 1995;

(b) Interregional cooperation for the development and exchange of experience between Arab, African, Latin American and Asian iron and steel associations;

(c) Preparation of a recovery and recycling project in Benin, Botswana, Burkina Faso, Gambia, Guinea, Namibia and Senegal;

(d) Various regional and interregional cleaner production activities;

(e) Visit of the Secretary of the Treaty for Cooperation in Amazonia project.

Notes

1/ A/CONF.164/37; see also A/50/550, annex I.

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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in Burundi

Note by the Secretary-General

The Secretary-General has the honour to transmit to members of the General Assembly a brief interim report on the human rights situation in Burundi prepared by Mr. Paulo Sérgio Pinheiro, Special Rapporteur of the Commission on Human Rights, pursuant to Commission on Human Rights resolution 1996/1 of 27 March 1996 and Economic and Social Council decision 1996/254 of 23 July 1996.

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ANNEX

Interim report on the human rights situation in Burundi submitted by the Special Rapporteur of the Commission on Human Rights, pursuant to Commission on Human Rights resolution 1996/1 and Economic and Social Council decision 1996/254

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I. INTRODUCTION

1. The Special Rapporteur on the human rights situation in Burundi is submitting this report to the General Assembly in accordance with Commission on Human Rights resolution 1996/1. The report covers the period from 16 February to 30 September 1996 and reflects the Special Rapporteur's findings with regard to the Burundi crisis during his third mission to that country from 1 to 17 July 1996, after the Burundi authorities had agreed to his request of 14 June 1996 for a visit. The mission was undertaken a week before the coup d'état which brought Major Pierre Buyoya to power on 25 July 1996 and led to the suspension of the National Assembly and political parties.

2. In the light of the recent coup d'état, the Special Rapporteur has decided to stress in the present report those facts which he deems particularly relevant to an understanding of the current situation in Burundi and to an in-depth analysis of the increase in the number of human rights violations in Burundi. Chapter II of the report deals with recent developments in the Burundi crisis; chapter III sets forth the Special Rapporteur's observations, while the last chapter, chapter IV, contains his recommendations. Some of the issues addressed in this document, including those relating to specific violations of human rights, will be considered in greater detail in the report to be submitted to the Commission on Human Rights at its fifty-third session.

3. During his most recent stay in Burundi, the Special Rapporteur had talks with the country's highest political, administrative, judicial, military and religious authorities. He would like to thank the former Minister responsible for human rights, social welfare and the advancement of women for the very fruitful exchange of views that he had with him. He, however, deplores the fact that despite renewed requests, he was not able to meet the then Prime Minister, who was said to be ill, or the Minister responsible for the resettlement and reinsertion of displaced, dispersed and repatriated persons. The Special Rapporteur had hoped to take up with the Prime Minister the contents of a letter dated 9 May 1996 concerning the Mutoyi and Kivyuka incidents of 26 April and 3 May 1996 respectively, which he had sent to the Prime Minister and also to the President of Burundi, and to which he had received no reply. He had also wanted to bring up during those talks another communication dated 7 June 1996, which he had written together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, addressed jointly to the Prime Minister and the President, with respect to the savage murder of three delegates of the International Committee of the Red Cross (ICRC) on 4 June 1996, near Mugina, in Cibitoke province, and the Prime Minister's reply dated 24 June 1996.

4. The Special Rapporteur warmly thanks the heads of diplomatic missions accredited to Burundi with whom he held a fruitful exchange of views, as well as the Secretary-General's Special Representative for Burundi, the delegate of the United Nations High Commissioner for Refugees, the political adviser of the Special Representative of the Secretary General of the Organization of African Unity (OAU) and the commander of the OAU Observer Mission in Burundi (OMIB) for their insightful comments on the turn of events in Burundi. He also appreciated the opportunity he afforded to meet briefly at the airport the Special Envoy of the United States of America for Rwanda and Burundi and to hold talks with the

Belgian Ambassador to the Great Lakes region. He was pleased to have been able to meet many representatives of international non-governmental organizations and various associations of Burundi's civil society.

5. Lastly, the Special Rapporteur would like to pay tribute to the head of the operational office of the United Nations Centre for Human Rights in Bujumbura and his entire staff for the meticulous arrangements made for his mission, the cordial welcome extended to him, the logistical support provided to him and the smooth operation of his mission, often under very unpredictable circumstances. Worthy of note is the excellent collaboration between the Centre's operational office, the Special Representative of the Secretary-General and the coordinator of the United Nations security unit in Bujumbura, who greatly facilitated his mission, especially his travel in the provinces, in conditions of maximum security. The Special Rapporteur would like to commend the first batch of human rights observers deployed in Bujumbura for the tremendous courage and dynamism they showed in conducting often sensitive investigations into serious violations of human rights.

6. The Special Rapporteur visited the provinces twice; he went first to Gitega on 11 July and then on 12 July proceeded to Ngozi, where he held discussions with the prosecutors and the presidents of the courts of appeal of the two towns and with representatives of OMIB. He also visited the women's prison at Ngozi, which suffered from a lack of water and adequate health care. Next, he had talks with the head of the delegation of the United Nations High Commissioner for Refugees about the tension prevailing in several camps in the region at the time of his visit. He would like to warmly thank the World Food Programme for its valuable assistance in organizing his air travel to the two above-mentioned towns.

7. On 13 July 1996,the Special Rapporteur, accompanied by the director of King Khaled hospital in Bujumbura, toured the hospital, where several adults and children suffering from gunshot wounds were being cared for, having been there in some cases for many months. He then proceeded to the Kamenge neuro-psychiatric centre, which had been converted about 18 months previously into a shelter for 3,500 displaced Hutus from that neighbourhood. He toured the camp with the director of the centre and his staff, who extended a warm welcome to him. However, the Special Rapporteur was unpleasantly surprised to learn, a few days later, that Mr. Déo Baribwegure, the administrator of the centre, with whom he had talked, had been arrested the day after his visit for complicity with "assailants". The Special Rapporteur immediately took up the case with the then chief of staff of the gendarmerie, who confirmed the arrest. According to the latest news, the administrator is still being detained at Mpimba central prison. The Special Rapporteur then visited a nearby centre for 4,500 displaced Hutus, situated not far from the dispensary of pastor Johnson, to whom he paid a second visit. The camp had received a fresh influx of about 100 persons, mainly women and children, who had scrambled down the slopes of the surrounding hills in order to escape from the pursuing soldiers. The Special Rapporteur also saw a man with serious gunshot wounds, wrapped in a blanket, who had been brought to the camp the day before his visit.

8. That same day, the Special Rapporteur met the area head of Kinama district in Bujumbura, who told him about the ongoing experiment to bring back the Hutus

and Tutsis who had fled from their homes and to help them to coexist peacefully. Some 55,000 persons had already returned to the district. He was able to travel widely throughout Kinama and to observe how young people from the two communities were committed to monitoring the arrivals and departures of people living in and visiting their neighbourhood.

9. Shortly before embarking on his mission on 1 July, the Special Rapporteur met with the United Nations High Commissioner for Human Rights to convey to him his serious concerns about the latest developments in Burundi. On the same day in Brussels, before flying to Bujumbura, the Special Rapporteur held talks with the Chef de Cabinet for the Member of the Commission in charge of External Relations with African, Caribbean and Pacific (ACP) Countries and South Africa and the Chef de Cabinet of the Minister for Foreign Affairs of Belgium. On 18 July 1996, the day after returning from his mission, the Special Rapporteur had a fruitful exchange of views with the representatives of Western European diplomatic missions in Geneva and held a press conference for journalists accredited to the United Nations Office at Geneva, which was widely reported in the international news media in the following days. In the course of his stay in Europe, the Special Rapporteur granted several interviews to major international news agencies, such as the British Broadcasting Corporation (BBC) and Radio France International. He also participated in several radio programmes following his return to Brazil.

10. At the third meeting, held in late May 1996 in Geneva and attended by special rapporteurs/representatives and chairmen of working groups, the Special Rapporteur held talks with the other two Special Rapporteurs for Rwanda and Zaire on issues common to the countries of the Great Lakes region. All three expressed the desire to undertake a joint mission in the course of which they would visit the three countries covered by their respective mandates. That mission, which was initially planned for the second half of October and was authorized and encouraged by the United Nations High Commissioner for Human Rights, had finally to be postponed until a later date because of the difficult situation in the Great Lakes region.

II. RECENT DEVELOPMENTS IN THE BURUNDI CRISIS

A. Evolution of the Burundi crisis following the second mission of the Special Rapporteur to Burundi

11. During the second half of 1996, the trends which the Special Rapporteur has already described in the addendum (E/CN.4/1996/16/Add.1) to his initial report to the Commission on Human Rights following his second mission to Burundi from 9 to 16 January 1996 have been deteriorating markedly. The human rights situation in Burundi has assumed catastrophic proportions, with its endless stream of targeted assassinations, arbitrary arrests, forced disappearances, looting, crime and the destruction of private property.

12. Although the responsibility for the "interlocking of reciprocal acts of violence" 1/ must be shared equally by the Tutsi and Hutu communities, the Special Rapporteur notes that the Government of Burundi and its armed forces have played a major role in the perpetration of these acts, in particular, the

massacres of civilians, of which there were many during the period under review. Women, children and elderly persons accounted for the majority of the victims of this indiscriminate violence. There reportedly were usually no witnesses to the carnage and massacres. Armed Hutu gangs and Tutsi militia, for their part, often were implicated in deadly encounters that resulted in grave violations of international humanitarian law and human rights, which the Special Rapporteur very forcefully condemns. Indeed, even though the large number of clashes between the army and the rebels, often attributable to the latter, which was typical of the first half of 1996, suggest that a smouldering civil war is under way (see E/CN.4/1996/16, para. 10), the Special Rapporteur wishes to point out that the Burundi army has what amounts to a monopoly on the heavy weapons which it uses in its confrontations with the rebels. 2/ Reports by numerous witnesses indicate that at times the rebels seem to use fairly sophisticated equipment and that their combat logistics have improved, although they are not yet powerful enough to deal a decisive blow to the Burundi army in conventional combat. The weapons commonly used by the rebels are largely hand-crafted and makeshift, and the injuries they inflict are sometimes very difficult to treat, given the wide variety of projectiles and materials used.

13. While it is true that Burundi currently is being torn apart by civil war, it should be noted at the outset that the resulting violence and unrest can be attributed to certain actors or parties: first and foremost to the armed forces and the security forces, next, to the militias, which are related to them, and, lastly, to an armed opposition that itself comprises various groups. All these actors are responsible, although to varying degrees, for the grave violations of human rights and international humanitarian law which are being perpetrated.

14. However, it would be unfair to put the rebel groups, no matter what their role in the violence has been, on the same footing as a State which has ratified the major international instruments on human rights and international humanitarian law and is therefore bound by strict obligations. Such groups do, nevertheless, have an obligation to respect certain minimal rules of humanitarian conduct that are part of international customary law.

15. It should be noted at the outset that the Special Rapporteur's use of the terms "Tutsi" and "Hutu" is by no means an attempt to characterize the conflict in Burundi along purely ethnic lines. The "ethnic" definitions attributed to the two primary groups in Burundi society are the legacy of the impact of a number of historical variables, in particular, the class distinctions imposed by colonial domination. 3/ In any event, the social fabric of Burundi has been influenced by post-colonial anthropological and historical assumptions which, although they currently seem to arouse scepticism in academic circles, nonetheless have become etched in the minds of many contemporary Burundians. 4/

16. As the Special Rapporteur has already pointed out (E/CN.4/1996/16, para. 24), the crisis in Burundi is the outcome of a struggle, common in societies experimenting with the process of a transition to democracy, between an elite minority with a decades-old monopoly over the country's intellectual, political, economic and social resources and the majority of the population, which was denied those resources or prevented from enjoying them through the democratic process, in particular, since the 1972 genocide targeting the Hutu intelligentsia.

17. In that year, a brief Hutu rebellion was countered with excessive force by the armed forces which, on the pretext of restoring peace and order, reportedly massacred at least 100,000 Hutus in a campaign of selective genocide. In addition, some 200,000 Burundians then went into exile. Three months later, the army, the Government and the economy had virtually been purged of their Hutu elements. 5/

18. This has been primarily a bitter struggle for political power. The ethnic turn Burundi society has taken is thus essentially a political phenomenon. 6/

19. The systematic elimination from Burundi society of various Hutu intellectuals, politicians and business persons in targeted assassinations throughout the first half of 1996, whether in Bujumbura or in certain provincial capitals, is reminiscent of the selective genocide of 1972. The Special Rapporteur learned from a number of eminent members of the Tutsi elite that the assassinations supposedly were acts of revenge against the Hutu for the acts of genocide which had targeted the Tutsi following the 1993 coup d'état, as the International Commission of Inquiry pointed out in its report (S/1996/682, para. 483). Nevertheless, even taking into account the many reports of alleged assassinations indicating that some were acts of vengeance, the Special Rapporteur is convinced that these infamous crimes, far from occurring by chance, were perpetrated in order to destroy the representatives of the Hutu intelligentsia that had already been obliterated.

20. However, the Special Rapporteur wishes to add that it also should be acknowledged that rebels belonging to the Forces de la défense de la démocratie (FDD), the armed wing of the Conseil national pour la défense de la démocratie (CNDD), had in March 1996 launched attacks in Bururi province in which some Tutsi reportedly had been killed, including officers of the Burundi army and members of their families. 7/

21. The Special Rapporteur has in fact observed an increase in the tempo of the attacks throughout the country by armed gangs and rebels against military installations. These attacks have engendered numerous counter-attacks by the army which, the allegations suggest, often appeared to be acts of reprisal against civilian populations, claiming many victims among non-combatants, including women, children and elderly persons.

22. Nevertheless, while acknowledging the information, the Special Rapporteur will not go so far as to assert that the Burundi army command coordinated or led these massacres. Indeed, the fact that soldiers counter-attacked indiscriminately after being targeted by their attackers suggests the absence of a coherent chain of command between the army general staff in Bujumbura and the troops in the field. Soldiers operating outside any hierarchical structure often act on their own, causing blunders. In most of the instances, their superiors apparently left them to their own devices, without intervening.

23. The Special Rapporteur cannot help but note that the key Government authorities appear to be in a state of utter confusion in the face of this alarming crisis and the army seems powerless to halt the rebel attacks. As a result, the authorities and the military command seem to be out of control, and are responding with indiscriminate reprisals against and assassinations of the

civilian population, thereby creating an even more favourable climate for the recruitment of FDD forces and their entrenchment in the country. 8/

B. Worsening of the situation in Burundi following the coup d'état of 25 July 1996

24. The coup d'état is simply the final chapter in a series of actions and policies on the part of the governing Tutsi minority, with the participation or support of Tutsi/military personnel and small extremist groups whose actions served its objectives. The Special Rapporteur has been observing this process, which started with the assassination of former President Ndadaye and gradually became a "creeping coup d'état", 9/ since the beginning of his mandate. Indeed, during the entire period from July 1993 to August 1996, the Tutsi opposition used every opportunity to derive the greatest possible advantage from the existing constitutional arrangement and did not hesitate to accompany its various obstructionist manoeuvres with street demonstrations. 10/

25. This gradual process was accompanied by another which the Special Rapporteur called "genocide by attrition" (see E/CN.4/1996/16/Add.1, para. 50). The two processes, which are manifested both politically and through the discriminatory practices of the minority against the majority, are characterized by constant dissimulation in daily actions and in the final analysis lead to an increase in the resources of the Tutsi elite. The latter is increasing its powers by the systematic use of ethnic cleansing, selective killings, acts of intimidation or terrorism perpetrated against the Hutu population and its representatives in civilian associations, and the harassing of "awkward" witnesses.

26. According to allegations confirmed by several sources, since 1993 at least 22 parliamentarians, all from the Front pour la démocratie au Burundi (FRODEBU), have been assassinated and 8 of their deputies' lives threatened. Four ministers of the former Government, including one Tutsi, six provincial governors and seven governor's advisers, as well as 46 local administrators, including a Tutsi lieutenant-colonel, the predecessor of the current mayor of Bujumbura, are also said to have suffered a violent death. Lastly, during the same period, 28 Hutu students are alleged to have been massacred at the University, and 22 members of religious orders, including some foreigners, are alleged to have been killed.

27. Beginning in June 1996, the "creeping coup d'état" gathered momentum, with the active participation of several members of the Tutsi elite, in both the Government and the opposition. The situation continued to deteriorate during the visit of the Special Rapporteur, who witnessed several public demonstrations in which hundreds, if not thousands of people marched through the streets with very few police to control them. The demonstrators were alternately young people demanding that partisans from SOJEDEM incorporated into the army, or members of militias from the circle around former President Bagaza mobilized to proclaim their opposition to any form of intervention in the country by foreign troops. When told by the mayor of Bujumbura that the intimidating processions of young Tutsis in the city were nothing more than physical exercises of a non-threatening nature, the Special Rapporteur wondered whether similar

processions organized by young Hutus might not have been considered provocations by the Tutsi minority.

28. It would be incorrect to believe that the coup d'état of 25 July 1996 in Burundi undermined a democratic system worthy of that name. Indeed, signs of a functioning democracy were barely perceptible and the minority showed little desire to apply the rules arising out of the Convention on Governance of 10 September 1994. The transition to democracy in Burundi died with the assassination of former President Ndadaye and in the wake of the events which led to the genocide of the Tutsis, then the massacring of Hutus. The long-standing difficulty in bringing to justice the persons responsible for those acts and the lack of impartiality of the judicial system are an extension of the very great unwillingness of military justice to prosecute members of the armed forces accused of having participated in the 1993 coup d'etat and the ensuing massacres of Hutus. 11/ In addition, the Burundi judicial system has only just begun to examine the files of the Hutus accused of having participated in massacres of Tutsis which were described as acts of genocide by the International Commission of Inquiry. These grave failings in the application of justice give rise to a profound sense of partiality and insecurity in the Hutu community.

29. The slow process of ethnic cleansing which has affected the Hutu population in the capital adds to the feeling of insecurity. Ethnic cleansing has gradually spread to all the provincial capitals and major urban centres with the complicity of the public authorities.

30. The attacks against President Sylvestre Ntibantunganya on 23 July 1996 during the burial of some 330 persons, most of them Tutsis, killed during the deadly Bugendana incident, his subsequent withdrawal from public life and his taking up quarters on 25 July at the residence of the American ambassador where he was given refuge, make up the final act of the tragedy in Burundi which began on 21 October 1993.

31. According to the Special Rapporteur, it is paradoxical that some members of the international community are now asking the de facto authorities who took power on 25 July 1996 to restore power to the former Government based on the Convention on Governance, when it is common knowledge that that régime lacked all the attributes of a democratically elected government. Since the events of October 1993 there has been a continuous dismantling of democratic institutions in Burundi by the forces belonging to the minority, whose handiwork is also evident in the coup d'état which has just taken place.

32. During his third visit to Burundi, the Special Rapporteur expressed his deep concern at the growing speed with which Burundi institutions were deteriorating, a trend which he had noted during his first two visits in June/July 1995 and in January 1996. Those institutions are still powerless to resolve the crisis in Burundi or control its international ramifications, following the second meeting in Mwanza, United Republic of Tanzania, organized on 9 June 1996 by former President Julius K. Nyerere, and the two regional summits of Heads of State and Government held in Arusha, United Republic of Tanzania, on 25 June and 31 July 1996, as well as the Organization of African

Unity (OAU) Summit of Heads of State and Government held in Yaoundé, Cameroon, from 8 to 10 July 1996.

33. During his visit, the Special Rapporteur noticed that the Convention on Governance, of 10 September 1994 was being denounced with increasing openness on all sides. The Tutsi community was refusing to obey any longer the requirements which it imposed on them vis-à-vis their Hutu partners, while the latter were being short-changed, holding only 23 per cent of the positions out of the 55 per cent allocated to them at the outset.

34. The complete lack of legitimacy conferred on the Convention on Governance, even though many moderate Burundians had supported it, and the carelessness of the authorities, were never greater than at the moment when the President of the Republic and the Prime Minister, just back from the first Arusha summit, gave differing accounts of the agreement which they had concluded and aired their differences of opinion in public, as, for example, in the letter which the Prime Minister sent to the President of the Republic on 2 July 1996. At the governmental level, the exercise of power in what were certainly crucial moments for the future of the country was gathered in the hands of the President of the Republic, the Prime Minister, the Minister of Defence and the National Security Council, while the other ministers in the Government were barely kept informed of Burundi's request for foreign security assistance made at the 25 June Arusha Summit and supported by the Yaoundé Summit a dozen or so days later.

35. For its part, the National Assembly was excluded from any substantive debate on the options discussed at Arusha, which in any case never began to be implemented in Burundi because of the change of regime decreed on 25 July 1996.

36. Since the closing of the border between Burundi and Zaire, some 20 Hutu Parliamentarians living in Uvira on the other side of the border are said to be having great difficulty in making their way to the National Assembly and apparently had to take roundabout routes through the United Republic of Tanzania via Kigoma and Lake Tanganyika. About 20 FRODEBU parliamentarians are said to have taken up exile in the United Republic of Tanzania, and a few more in Kenya, since the 25 July coup d'état. Although several foreign parliaments are providing moral support and material assistance to the Burundi parliamentarians. The National Assembly cannot function normally. The 13 September 1996 decree by Major Buyoya announcing the restoration of the National Assembly within the legal framework of the transitional institutional system, together with the restoration of political parties, gives no indication as to when one of the next regular sessions of the Assembly will be convened. To date, the Assembly has adopted no official position on the latest events in the crisis. Nor has it been able to take up the work of the Technical Commission on the National Debate, the Chairman of which resigned in April 1996, or to give its opinion on some of the urgent problems which are undermining the country, such as the general climate of insecurity, the question of refugees, and displaced or dispersed persons, the property and land distribution regime, the deteriorating economic, social and health conditions of the people and the loss of cultural and moral values capable of bringing the people of Burundi together.

III. OBSERVATIONS

37. In the Declaration and Programme of Action of the World Conference on Human Rights of 1993, democracy is considered a condition sine qua non of respect for and enjoyment of human rights. The Special Rapporteur believes that human rights organizations should take a pro-democracy approach in their activities for Burundi and demand the immediate launching of a transition process based on democratic institutions and the equitable participation of all components of Burundi society. In the light of the experience of a number of regimes which made the transition to democracy in the 1980s, the Special Rapporteur believes that a system of institutional transition cannot be unilaterally defined by the new de facto authorities in power; rather, a genuine broad dialogue within the political parties and civil society must be initiated.

38. By supplanting the country's lawful authorities, the coup d'état of 25 July 1996 disrupted an important negotiation process under way in the subregion, which was on the verge of proposing appropriate solutions for the pacification of Burundi. The use of armed violence in order to gain power, even for the most respectable reasons, cannot be tolerated by the international community. For its part, the Security Council, in its resolution 1072 (1996) of 30 August 1996, strongly condemned the overthrow of the legitimate Government and constitutional order in Burundi and called upon the new regime to restore legality in the country and to lift the ban on the National Assembly and political parties.

39. The Security Council strongly supported the efforts of the OAU and former President Nyerere and demanded that all sides in Burundi should declare a ceasefire and an immediate halt to violence. It also demanded that all of Burundi's political parties and factions, whether inside or outside the country, should initiate negotiations immediately, with a view to reaching a comprehensive political settlement. If no significant progress to that end was achieved by 31 October 1996, the Security Council reserved the right to resort to the imposition of sanctions against Burundi under the Charter of the United Nations, which might include, among others, a ban on the sale of arms and related matériel to the new regime and to all factions inside or outside Burundi, and measures targeted against its leaders if they continued to encourage violence and obstruct a peaceful resolution of the Burundi crisis. As the Secretary-General said in his report to the Security Council of 15 August 1996 (S/1996/660, para. 49), "the international community must allow for the possibility that the worst may happen and that genocide could occur in Burundi. [...] military intervention to save lives might become an inescapable imperative."

40. The Special Rapporteur warmly congratulates the OAU on the various initiatives it has taken from the outset of the crisis in Burundi, and, in particular, during the negotiation process leading to the Arusha regional summits of 25 June and 31 July 1996 and the thirty-second ordinary session of the Assembly of Heads of State and Government of the Organization of African Unity, held in Yaoundé, from 8 to 10 July 1996. He has noted the press release issued by OAU on 5 August 1996, in which the Central Organ of the OAU Mechanism for Conflict Prevention, Management and Resolution requested the Bujumbura regime to take immediate steps to put an end to illegality and restore the

constitutional order of Burundi. On the other hand, he expresses his profound regret at the decision taken by the Central Organ of the OAU Mechanism to terminate the mandate of OMIB, which performed remarkably under particularly difficult conditions. The Special Rapporteur applauds the determination of those African countries, including Ethiopia, Kenya, Rwanda, Uganda, United Republic of Tanzania, Zaire and Zambia, which decided unanimously to impose economic sanctions against Burundi, coinciding with the efforts undertaken by President Nyerere, the Heads of State of the region and the OAU, in order to arrive at a peaceful settlement of the Burundi conflict. He would have hoped, however, to see the Western countries voice stronger support for the condemnation of the coup d'état by the neighbouring States of Burundi and for the above-mentioned African countries in their common undertaking to impose sanctions against Burundi.

41. The Special Rapporteur expresses his profound dismay at the resurgence of massacres which seems to have occurred since the coup d'état, noting claims of more than 6,000 deaths, mainly in the provinces of rural Bujumbura, Cibitoke, Kayanza, Murumvya and Gitega. According to some reports, in the commune of Giheta, Gitega Province, alone, 4,050 corpses were buried out of a total of approximately 6,000 between 27 July and 10 August 1996; apparently, a number of bodies could not be identified and others were thrown into the Ruvyironza River.

42. In this connection, the armed campaign waged by civilians in the country last spring may well have had disastrous effects; in a number of cases, rebels were reported to have carried out reprisals against certain local Tutsi officials or persons of note suspected of possessing arms. This factor may have played a role in the killing at Teza, where workers in a tea factory were allegedly pursued as far as their homes and then massacred.

43. However, the Special Rapporteur notes, and views as a positive sign, the ending of the suspension of the National Assembly and political parties by the de facto Burundi authorities, who have reconsidered this most unfortunate decision. Nonetheless, this measure will be inadequate if the de facto authorities are not capable of ensuring the inviolability of the parliamentarians and preventing any attacks on their physical integrity and that of their families.

44. Nonetheless, while aware that the Hutu rebels are deliberately resorting to violence and committing atrocities against the minority, action which he finds reprehensible, the Special Rapporteur cannot accept the use of arms to effect a change of political regime.

45. As Burundi has ratified the major international human rights instruments and the Geneva Conventions of 1949 and the Protocols Additional thereto of 1977 (see E/CN.4/1996/16, note No. 8, p. 36 and E/CN.4/1996/16/Add.1, para. 33), the de facto authorities and, consequently, the Burundi army, must ensure their implementation and respect for their norms by members of the armed forces and must prevent atrocities from being committed by the military or by ordinary Burundi citizens. Unfortunately, thus far, the Special Rapporteur has discerned little change in the basic attitude of the High Command of the army in this regard. While rebels or armed gangs are not similarly bound by these obligations, they nevertheless are required to respect certain humanitarian

principles arising from international customary law and recognized by all civilized nations.

46. The Special Rapporteur intends to emphasize the fact that there can be no lasting solution to the Burundi crisis unless exemplary measures are taken to put an immediate end to serious human rights violations, investigate past violations and bring the perpetrators of such acts to justice. No political solution will be viable in Burundi unless it takes into consideration the absolute necessity of punishing human rights violations. A democratic regime worthy of the name is duty-bound to accord priority to respect for human rights. A human society that proves to be incapable of devising a human rights strategy which satisfies certain minimum requirements, in particular, in the area of fundamental rights and freedoms, is doomed to failure.

47. Such an approach has implications for the problems posed by refugees and internally displaced persons in the Great Lakes region. These populations cannot be expected to return to their homes if the political systems and national laws to which they are subject fail to offer them reliable guarantees against summary executions, enforced disappearances, torture and unfair trials. The Special Rapporteur is therefore firmly convinced that it is impossible to find humanitarian solutions to the problems of refugees and displaced persons without taking into account the need to guarantee rights and fundamental freedoms. The very concept of protecting refugees cannot be dissociated from the concept of human rights. Human rights violations are a major cause of mass population movements, and refugees are persons whose rights have been seriously scorned or threatened. 12/ There can be little hope that these populations will return to their homes if such threats persist.

48. The Special Rapporteur has taken note, with great interest, of the report of 22 August 1996 issued by the International Commission of Inquiry (S/1996/682) and the information it provides regarding the circumstances surrounding the assassination of President Ndadaye and the massacres which followed. He notes with great regret, however, that, despite the very great difficulties that the members of the Commission encountered during their work and despite their great intellectual capacities, they have not really come up with any new ideas regarding two issues which are crucial to the future of Burundi, namely, impunity and genocide. The Special Rapporteur is very frustrated by the incomplete nature of the conclusions and recommendations presented by the International Commission of Inquiry, which leave unresolved the scourge of impunity and make no definite and specific proposals on how to eliminate it.

49. As to the thorny question of genocide, it would have been welcome if the Commission had undertaken a detailed study of that aspect of the Burundi situation, by combining recent conceptual elements with concrete facts gathered in the field. Whereas the 1951 Convention on the Prevention and Punishment of the Crime of Genocide defines genocide simply as "acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group" (article II), there are other criteria which are important for a thorough grasp of the acts of genocide that have occurred in recent times - specifically, criteria based on the social or economic class or political affiliation of groups of persons exposed to possible genocide - which are not included in that definition. Furthermore, in the case of Burundi, it would have been useful for

the analysis to be carried further with respect to three issues: the need to gather evidence, even indirect evidence, of the real intentions of the person or persons involved in an act of genocide; the threat that genocide poses for the survival of a specific group of human beings; and the unilateral nature of the oppression or reprisals carried out. 13/

50. In the final analysis, the report of the International Commission of Inquiry provides no new information concerning who was really behind the assassination of President Ndadaye or regarding the main protagonists in the genocide of the Tutsis and the subsequent massacres of the Hutus. The Special Rapporteur also very much regrets that the Commission encountered a clear lack of cooperation from the Burundi army, particularly in the context of the hearing of a number of military witnesses.

51. Finally, the Special Rapporteur was shocked by the unrealistic nature of the Commission's conclusions on the issue of assigning to the Burundi system of justice the task of prosecuting, trying and sentencing, in accordance with the laws of Burundi and the provisions of the International Covenant on Civil and Political Rights, those responsible for the October 1993 coup d'état, the assassination of President Ndadaye, acts of genocide against Tutsis and the ensuing massacres of Hutus. According to its report, the International Commission of Inquiry is very well aware of the limitations and weaknesses of the Burundi system of justice. The Commission would assign to the Burundi system of justice a task which the latter is not capable of carrying out. The intolerable difficulties encountered in recent months by the three criminal chambers of the courts of appeal of Ngozi, Gitega and Bujumbura are glaring proof of this.

52. As he has already pointed out in his first report (E/CN.4/1996/16, paras. 146-153), the Special Rapporteur reiterates that the administration of justice in Burundi must be reformed as a matter of the utmost urgency in order to restore its credibility with the people of Burundi and to restore its impartiality by ensuring that its ethnic composition reflects all elements of Burundi society. At their two first sessions, held in February and May-June 1996, the three criminal chambers mentioned above dealt with only about 150 cases out of 1,300 cases relating to the painful events of October 1993, for which there are nearly 4,000 defendants awaiting trial.

53. The Special Rapporteur was horrified to learn, in regard to these 150 cases, that the three criminal chambers had handed down 89 death sentences, 36 sentences of life imprisonment and a number of prison sentences of 20 years, even though not one of the defendants had had the assistance of counsel or been aware of the gravity of the charges against him. The Special Rapporteur noted with his own eyes the almost complete lack of resources with which the appeals courts, prosecutors - several of whom have to cover a number of provinces - and their services operate. They are without paper or typewriters, without means of transportation for travelling to the scene of the crime, conducting inquiries or visiting the accused in prison at the time of sentencing, virtually without telephone and without any protection during the proceedings.

54. Moreover, the Special Rapporteur wishes to emphasize the speed with which the trial chambers arrived at their first convictions, devoting, on average, two

to three hours to hearing each case. In his view, such conduct constitutes a flagrant denial of justice. We cannot overemphasize the importance of ensuring minimum conditions for the proper operation of Burundi justice. The only way to bring back the rule of law, restore confidence and promote reconciliation among all the people of Burundi is by combating the impunity which has existed in Burundi for 30 years. In order to do so, it is indispensable to have foreign lawyers present at the next session of the criminal chambers, which has been postponed, in principle, till October. Only with a concerted effort and international assistance of this nature will it be possible for a totally inadequate system of justice to function normally again.

55. The expatriate staff of the various non-governmental organizations or humanitarian institutions working in Burundi have not escaped the violence. The murders of three ICRC delegates on 4 June 1996 prompted considerable fears within the international community and among non-governmental organizations, making their work in the field even more difficult. One organization, Action internationale contre la faim (AICF), faced with a stream of increasingly specific threats against it, decided to leave Burundi in mid-July. This episode illustrates in part the dilemma facing the non-governmental organizations. Indeed, particularly since the ICRC pulled out of Burundi, the current climate of extreme insecurity has gradually been turning the country into a vast terra incognita increasingly cut off from international assistance.

56. With regard to the sanctions imposed on 31 July 1996 by the Arusha regional summit, the Special Rapporteur is very aware that these measures are beginning to have a real impact on the population of the towns, particularly the urban elite, and that they are adding to the suffering in rural areas, where people are often poor and where, owing to the violence and the civil war, regular access to, inter alia, health care, hygiene, various essential goods and primary and secondary education have become even more drastically curtailed.

57. The Special Rapporteur is following very carefully the work of the sanctions committee established in Nairobi, and he welcomes the exceptions which that committee has granted to assist the work of United Nations agencies in Burundi by authorizing, as of 6 September 1996, exceptions in respect of baby food, including articles necessary for the health of children and hospital patients, laboratory and emergency care equipment, limited quantities of kerosene to supply the cold chains for vaccines, fuel and communications equipment for the operation of these agencies in the field.

58. In the final analysis there cannot be any lasting peace in Burundi unless a real solution is found to the cardinal problem, namely, undivided rule by the Tutsi minority and its continuing efforts to remain in power, thanks to the control it has over the army and its continued exclusion of the Hutu majority, which it marginalizes. The Special Rapporteur repeats that no peace worthy of the name can be established in Burundi unless an equitable solution is found to the above-mentioned problem, a solution that provides strong guarantees to the minority once and for all, ensures respect for democracy and leads, at last, to a real sharing of power on concrete and realistic bases, so that the tremendous social and economic inequalities that continue to beset Burundi society may be overcome.

IV. RECOMMENDATIONS

59. After making his third visit to Burundi, the Special Rapporteur wishes to formulate a number of recommendations. They follow on from those submitted in his initial report (E/CN.4/1996/16, paras. 144-170) and the addendum thereto (E/CN.4/1996/16/Add.1, paras. 57-72) and require the urgent attention of the new de facto authorities and the international community in view of the extremely alarming deterioration of the human rights situation in Burundi, particularly since the coup d'état of 25 July 1996.

A. At the national level

60. A genuine and substantive political dialogue must be initiated as early as possible between all the parties to the conflict in Burundi, including those residing outside Burundi, and it must lead to negotiations conducted under the aegis of the United Nations and the Organization of African Unity.

61. The Special Rapporteur expects the de facto authorities to embark urgently and without further delay on the reforms which he called for in his initial report (E/CN.4/1996/16, paras. 146, 147, 157 and 158) and the addendum thereto (E/CN.4/1996/Add.1, paras. 58 (c), 58 (d) and 58 (f)) with respect to the Burundi army and security forces, the judicial system and education, so as to facilitate access to the various State institutions by the majority of the people, who are currently excluded from the country's elite. The experience of the democratic transition in South Africa could be extremely helpful in pointing the way.

62. In the light of the recent forced return of 15,000 Rwandan refugees to their country of origin, which took place in the area of Ngozi towards the end of July, and following the repatriation under the auspices of the United Nations High Commissioner for Refugees (UNHCR) of 66,000 refugees in August 1996, the de facto authorities should actively pursue their cooperation with the High Commissioner and avoid taking unilateral steps with respect to the approximately 4,500 refugees who are still in Burundi, even if new flows of refugees arrive in the months to come. The cooperation should also focus on finding humane solutions for the prompt return in a peaceful and orderly manner of the 200,000 Burundi refugees principally in Zaire and the United Republic of Tanzania.

63. In order to demonstrate their commitment to the cause of human rights, the military leaders are urged to give official instructions to all their subordinates to desist from killing non-armed civilians and to remove from his post any soldier, whether or not an officer, who is implicated in such acts or likely to commit them afresh.

64. While noting that the suspension of the National Assembly and the political parties has been ended, the Special Rapporteur urges the de facto Burundi authorities to protect and respect the physical integrity of the parliamentarians exiled in the United Republic of Tanzania, Zaire and Kenya and to ensure that the National Assembly receives the necessary constitutional guarantees to be able to carry out its work effectively.

65. The Special Rapporteur also deems it essential to set a timetable with the de facto authorities for the holding of free and fair legislative elections in the near future, with the active participation of the entire population of Burundi.

66. The Special Rapporteur urges the de facto authorities to put an immediate halt to the violence and massacres occurring throughout the country and to arrest and bring to trial the perpetrators of such crimes. He calls for an immediate inquiry to look into the circumstances of the tragic assassination of the Archbishop of Gitega, Monseigneur Ruhana, and of the two nuns who were accompanying him, and he demands that the perpetrators of these crimes should be pursued and arrested without delay. He further requests the same authorities and the general staffs of the army and security forces to give official instructions to their subordinates regarding the absolute necessity of halting immediately the massacres of non-armed civilians, the majority of whom are women, children and elderly persons, massacres which for the most part are carried out by soldiers, sometimes accompanied by displaced persons or Tutsi militia.

67. He urges them to spare no effort to ensure that no extrajudicial or summary executions, forced disappearances or arbitrary arrests accompanied by ill treatment are carried out by persons in the Burundi army or security forces.

68. He calls upon the de facto authorities to establish a firm chain of command within the army and the security forces, so that senior officers bear real responsibility for abusive acts committed by their subordinates.

69. The Special Rapporteur urgently requests that the allegations of complicity between the governmental armed forces and some extremist armed groups or militia be denounced by the competent authorities, which should begin without delay to keep such armed groups under strict surveillance, if not to dismantle them completely.

70. The Special Rapporteur most firmly requests the de facto authorities to carry out forthwith an independent, neutral, objective and comprehensive inquiry into the exact circumstances of the murder of the three ICRC delegates on 4 June 1996 near Mugina, Cibitoke Province, and to find out who is responsible for those deaths. The results of the initial inquiry submitted by the former Burundi authorities are totally inadequate and unacceptable. The international community cannot rest as long as the perpetrators of this odious crime escape prosecution and the punishment they deserve.

71. The Special Rapporteur emphasizes in particular to the de facto authorities the urgent necessity of providing the non-governmental organizations with adequate security conditions, without which they cannot continue to assist the vulnerable groups of the Burundi population.

72. The Special Rapporteur also recommends that the de facto authorities pay greater attention to the recommendations formulated by the International Commission of Inquiry (S/1996/682, paras. 492 and 493), which inter alia allude to the fact that no system of justice can function normally as long as there are overriding ethnic confrontation and total insecurity, fed by the impunity which

permeates Burundi. Once peace has returned and minimal security conditions have been restored, a fundamental reform of the Burundi system of justice should be undertaken, with emphasis on the indispensable inclusion of Hutus in the ranks of the judges, prosecutors and judicial police, in order to restore balance to the vital machinery of the administration of justice, confer on it the characteristics of a non-political, impartial and independent body and endow it with the necessary powers and the credibility that it deserves.

73. The Special Rapporteur unreservedly supports the recommendation of the International Commission of Inquiry calling for the abolition of the present practice of indefinite detention without formal accusation or prosecution.

B. At the international level

74. The Special Rapporteur congratulates the United Nations Secretary-General, the Secretary-General of the OAU and former President Nyerere on their untiring efforts to find a solution to the Burundi crisis and on doing their utmost to prevent it. In this regard, former President Nyerere should be warmly encouraged to continue his good offices with the aim of engaging all the parties to the Burundi conflict in a constructive dialogue leading to concrete negotiations which will bring peace and national reconciliation.

75. The Special Rapporteur also requests the international community's continued support, especially in political, financial and logistic terms, for the intense efforts being made by the Secretary-General, his Special Representative in Bujumbura and the Security Council to manifest the international community's solidarity with Burundi, induce the de facto regime to embark resolutely on the path of democracy and respect for human rights, and to ward off all possibility of the worst occurring in Burundi, through the preparation of an inter-agency emergency plan to come to the aid of the most needy and vulnerable population groups.

76. The Special Rapporteur earnestly requests the international community to remain united behind the efforts currently being made by the United Nations, the OAU and the African countries as a group, to maintain pressure by means of economic sanctions and to demand from the de facto authorities immediate concrete evidence of their intention to conclude a ceasefire between all the interested parties leading to realistic negotiations. If necessary, at a later stage, recourse to the presence of an international peacekeeping force which would permit neutralization of the army and the rebels, reorganization of the army and the security forces throughout the country, and also the start of a real dialogue on the fundamental problems of the country, should not be excluded.

77. Despite the dangerous and changing context which currently characterizes Burundi, particularly since the departure of OMIB, the international community should significantly increase the number of human rights observers in Burundi, with a view to gradually establishing a presence in the principal towns of all the provinces. Even when limited, the presence of observers is essential in order to reassure the people and ensure that the serious human rights violations they suffer are duly denounced and investigated.

78. The Special Rapporteur noted with satisfaction resolution 1053 (1996) adopted by the Security Council on 23 April 1996 relating to the interim report on the sale of arms 14/ dated 17 January 1995 which was submitted to it by the International Commission of Inquiry. In particular, he supports the request of the Security Council addressed to the States of the Great Lakes region, and he earnestly requests them to ensure that their territory is not used by armed groups as a base to launch raids or attacks against another State in violation of the principles of international law and the Charter of the United Nations. Following the lead of the Security Council, he strongly encourages the States in the region to honour the commitments which they assumed during the Tunis summit on 18 March 1996, especially their pledge to stamp out arms traffic and prohibit the military training of the rebel groups with a view to armed border raids. The Special Rapporteur earnestly requests that the threat which the illegal and uncontrolled movements of arms and related matériel pose to peace and stability in the Great Lakes region should be eliminated.

79. The Special Rapporteur requests the Security Council and the United Nations Secretary-General to concern themselves with the lack of attention which the troubling problem of impunity in Burundi received from the International Commission of Inquiry and with the absence from its recommendations of proposals for measures "of a legal, political or administrative nature, as appropriate, after consultation with the Government of Burundi, and measures with regard to the bringing to justice of persons responsible for those acts, to prevent any repetition of deeds, similar to those investigated by the commission and, in general, to eradicate impunity and promote national reconciliation in Burundi". 15/ In this respect, the Special Rapporteur recalls that, when drawing up the mandate of the International Commission of Inquiry, the Security Council recognized that the cycles of violence in Burundi could not be stopped unless an end was also made to impunity. Consequently, the Special Rapporteur strongly recommends that the Security Council consider the possibility of immediately setting up an international court to prosecute those who ordered and carried out the assassination of President Ndadaye, the genocide against the Tutsis and the ensuing massacres of the Hutus.

80. In the meanwhile, the Special Rapporteur requests the international community to be generous in its support of the international legal assistance project the request for which the Burundi authorities and the Burundi Bar Association submitted to the United Nations in April 1996. In the first stage of this project, which is the result of intense collaboration between the United Nations Centre for Human Rights operational office in Bujumbura, the Office of the Special Representative of the Secretary-General for Burundi, the representatives of the Burundi Bar, the Ministry of Justice and various local associations for the defence and promotion of human rights, a number of foreign lawyers would help their Burundi colleagues to assist defendants awaiting sentence for three weeks during each session, and if possible during several sessions. The focal point for the project, which is intended to expedite the examination of at least 540 cases currently pending before the criminal chambers of the Ngozi, Gitega and Bujumbura courts of appeal, would be the Centre's operational office in Bujumbura.

81. Lastly, the Special Rapporteur supports the proposal made by the Special Rapporteur on the human rights situation in Zaire in his forthcoming report to

the Commission on Human Rights at its fifty-third session requesting a special session of the Commission devoted to the most urgent problems of the Great Lakes region. This special session could be the occasion for the adoption of a comprehensive resolution on the region, as recommended by the Special Rapporteurs on the human rights situation in Burundi, Rwanda and Zaire at the close of their first meeting on 18 January 1996 (E/CN.4/1996/69, para. 18).

Notes

1/ For the expression "interlocking of reciprocal acts of violence", see Lemarchand, René, "Burundi in comparative perspective: Dimensions of ethnic strife" in: McGarry J. and O'Leary B. eds., The politics of ethnic conflict regulation, London and New York, Routledge, 1993, cit., Adekanye, J.'Bayo, "Rwanda/Burundi: 'Uni-ethnic' dominance and the cycle of armed ethnic formations", Social identities, vol. 2, No. 1, 1996, p. 38.

2/ Malkki, Liisa, Purity and Exile, The University of Chicago Press, 1995, p. 35.

3/ Adenkanye, J'Bayo, idem.

4/ Malkki, op. cit., p. 28.

5/ Lemarchand, René and Martin, David, Selective genocide in Burundi, Report No. 20, London, Minority Rights Group, 1974, p. 5, cit. Malkki, op. cit., pp. 35-36.

6/ Lemarchand, René, Burundi: Ethnic conflict and genocide, Washington, Wilson Center Press/Cambridge University Press, 1996, cit. Gourevich, Philip, "The Poisoned Country", The New York Review of Books, 6 June 1996, p. 59.

7/ See Ajello, Aldo, "First mission report of the Special Envoy for the Great Lakes region", Brussels, Council of the European Union, 30 May 1996, point No. 6.

8/ Malkki, op. cit., p. 31.

9/ According to the expression used in a document of the United States Committee for Refugees dated 30 July 1996.

10/ Lemarchand, René, op. cit., first paperback edition with new preface, p. xix.

11/ Reyntjens, Filip, "Burundi: Breaking the cycle of violence", Minority groups update, London, Minority Rights Group, 1996, p. ii.

12/ UNHCR. The State of the World's Refugees. In Search of Solutions, 1995, Oxford, Oxford University Press, 1995, p. 58.

13/ Jonassohn, Kurt, "What is genocide?", in Fein, Helen, ed., Genocide Watch, New Haven-London, Yale University Press, 1992, pp. 17-19.

14/ Interim report of the International Commission of Inquiry to investigate reports of the sale or supply of arms to former Rwanda government forces in violation of the Security Council arms embargo and allegations that those forces are receiving training to destabilize Rwanda (S/1996/67).

15/ Security Council resolution 1012 (1995), of 28 August 1995, para. 1 (b).